

U.S. DEPARTMENT OF ENERGY{PRIVATE }
 OFFICE OF ENERGY EFFICIENCY AND RENEWABLE
 ENERGY

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PUBLIC HEARING
 ON
 NOTICE OF PROPOSED RULEMAKING:
 ALTERNATIVE FUEL TRANSPORTATION PROGRAM:
 alternative compliance

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WEDNESDAY
 JULY 12, 2006

The Public Hearing met in Room E-245 in the Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C., at 9:00 a.m., Linda Bluestein, Regulatory Manager, Department of Energy, presiding.

PRESENT

LINDA BLUESTEIN, Department of Energy
 CHRISTOPHER CALAMITA, Department of Energy
 MIKE CALDAREA, NGPA
 WAYNE COREY, U.S. Postal Service
 GENEVIEVE CULLEN, Electric Drive
 Transportation Association
 BRIAN FEEHAN, PERC
 DAVE GELMAN, New West Technologies
 DEB GROSS, L-3
 JOHN HOLT, NRECA
 JON KOPENHAVER, National Biodiesel Board
 CALVIN KRYTSINGER, AMEREN
 JON LEONARD, TIAX
 KATHLEEN NAWAZ, National Renewable Energy
 Laboratory
 PATRICK O'CONNOR, National Association of
 Fleet Administrators
 MARCY ROOD, Department of Energy
 BOB SCHOMBER, Florida Power and Light
 JOSIE SHARP, National Association of Fleet
 Administrators
 RICK TEMPCHIN, Edison Electric Institute
 WILLIAM WEST, Southern California Edison

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1 P-R-O-C-E-E-D-I-N-G-S

2 9:07 a.m.

3 MS. BLUESTEIN: Good morning. I'm
4 Linda Bluestein from the Office of Energy
5 Efficiency and Renewable Energy with
6 FreedomCAR and Vehicle Technologies Office
7 here at the Department of Energy. I'm
8 heading the rulemaking activity for the
9 Alternative Fuel Transportation Program
10 alternative compliance.

11 The others joining me today are
12 Chris Calamita from DOE. He's with DOE's
13 General Counsel's office. Marcie Rood, with
14 DOE. And she's currently, not with the Clean
15 Cities Program, but anyway, she was and she's
16 still interested and involved in it. And we
17 have Kathleen Nawaz, with the National
18 Renewable Energy Laboratory. Dave Gelman
19 with New West Technologies, and Jeff Clark,
20 up at the front table with New West
21 Technologies. And Michelle Constantino, who
22 checked you in in front. Those are, that's
23 our EPACT Compliance Team. And we all work
24 together as a unit, and if you have questions
25 or need anything afterward, talk to any of

1 us.

2 I'm the presiding officer for this
3 public hearing. On behalf of the Department,
4 I'd like to thank you all for taking the time
5 to participate in the workshop.

6 The Notice of Proposed Rulemaking
7 with the hearing information was published in
8 the Federal Register dated June 23, 2006. If
9 you do not have a copy, we have extra copies
10 available at the front table.

11 This public hearing is for
12 receiving your comments on issues related to
13 the NOPR.

14 EPACT of 2005 was signed into law
15 in August 2005 and the Department decided the
16 best way to carry out section 703 of EPACT
17 2005 was by pursuing a rulemaking activity
18 for the purpose of setting out procedures to
19 implement alternative compliance.

20 Section 703 created section 514 of
21 the Energy Policy Act to provide a new
22 alternative compliance option that states and
23 covered persons or fuel providers may use in
24 lieu of meeting the AFV acquisition
25 requirements that otherwise would apply under

1 EPACT of 1992.

2 Under this provision, DOE is
3 instructed to grant a waiver from the AFV
4 acquisition requirements if the state entity
5 or covered person demonstrates that it will
6 reduce its motor vehicle petroleum
7 consumption by an amount that equals 100
8 percent alternative fuel use in all of the
9 fleet's AFVs, including AFVs that otherwise
10 would be required in waiver years.

11 As implemented through the
12 proposed rule, a state entity or covered
13 person could use alternative fuel in any of
14 its motor vehicles or acquire efficient
15 vehicles that are not AFVs, such as hybrids,
16 to achieve the required reduction in
17 petroleum motor fuel.

18 Today's workshop agenda items
19 cover issues related to the NOPR, and the
20 procedures that DOE is proposing for states
21 and covered persons to submit requests for a
22 waiver for petroleum reduction under the
23 alternative compliance provision.

24 The NOPR proposes new subpart i of
25 10 CFR Part 490. This subpart proposes

1 provisions regarding timing of waiver
2 requests and responses by DOE. Waiver
3 documentation and submission requirements,
4 annual reporting of petroleum reductions, use
5 of credits, rollover of excess petroleum
6 reduction to future years, enforcement of
7 violations and record retention.

8 We seek your comments concerning
9 these issues. The comments received today
10 along with the comments submitted during the
11 written comment period will assist us in
12 drafting the final rulemaking. The final
13 rulemaking will provide framework for the
14 alternative compliance waiver process. DOE
15 will issue additional guidelines as necessary
16 to provide further information and
17 clarification.

18 To provide us with as much
19 pertinent information and as many views as
20 can be reasonably obtained and to enable
21 interested persons to express their views,
22 this hearing will be conducted in accordance
23 with the following procedures.

24 It will be conducted in an
25 informal conference style. A court reporter

1 is present to record the minutes of the
2 meeting. There shall be no discussion of
3 proprietary information, costs or prices,
4 market shares or other commercial matters
5 regulated by the U.S. antitrust laws.

6 To begin with, I will make a
7 presentation briefly reviewing the current
8 program and how it works. Then I will
9 present new information discussed in the
10 NOPR. After that, I will take questions.
11 Following that, we will then give the public
12 a chance to make statements of up to 20
13 minutes, and we've provided you with an
14 agenda with a list as to what time you'll be
15 speaking.

16 I can tell you that we had
17 allotted 20 minutes for each of these
18 presentations, but some of them will be quite
19 a bit shorter. And most likely we'll
20 probably be adjourning around noon. I would
21 say, just estimating, it could go as late as
22 1, but that will depend on the question and
23 answer sessions.

24 In two weeks or so, a complete
25 copy of the official hearing transcript will

1 be available for inspection on the DOE
2 website. Anyone wishing to purchase a copy
3 of the transcript can make arrangements with
4 the court reporter.

5 If you believe a topic has not
6 been completely discussed at the workshop, by
7 all means address it in additional written
8 comments. They're due August 7, no later
9 than August 7, 2006. All written comments
10 and data submissions will be available for
11 public inspection on our website. If there's
12 any problem with access, you can call me at
13 202-586-6116 or email me at
14 linda.bluestein@ee.doe.gov. And that
15 information also is in the notice as well.

16 Now, if there are no questions or
17 further comment, let me segue into the
18 presentation we've prepared on the NOPR.

19 Is there anything at this point?

20 So this is the outline for the
21 workshop, just in real basic terms. I will
22 give a presentation. I would appreciate it
23 if I could go through the presentation fully,
24 and then we can do Q and A after the
25 presentation. And then, upon the public

1 participation, each of you will either get up
2 here, you can probably even do it sitting
3 down if you'd like, unless you, I think John
4 Leonard has slides he can come up here and do
5 those. And then, I will probably be asking
6 you questions after your statements. So that
7 will give me a chance to interact a bit with
8 you.

9 So here's the background on the
10 program for those of you who might not know
11 everything. The next several slides are a
12 review of the ongoing alternative fuel
13 vehicle acquisition program. The initiating
14 legislation is EPACT of 1992 and the
15 regulations for this program are codified in
16 10 CFR Part 490, Alternative Fuel
17 Transportation Program.

18 The purpose of the program is to
19 promote the use of alternative fuel vehicles
20 and petroleum replacement. The final
21 rulemaking for 10 CFR Part 490 was published
22 in the Federal Register in March of 1996 and
23 compliance of covered fleets began in the
24 1997 model year.

25 Certain alternative fuel providers,

1 also known as covered persons, which you may
2 hear me say from time to time, and state
3 agencies are covered under this program. The
4 geographical location and the size of the
5 fleet are used to determine coverage.

6 Currently, the number of entities
7 that report to DOE totals 315. Some of these
8 represent consolidated reports, where one
9 state agency submits one report for multiple
10 agencies, and some include all state
11 agencies.

12 So, covered fleets at this point
13 know who they are and they report to us.
14 They're covered if they have at least 50 non-
15 excluded light duty vehicles in the United
16 States, and at least 20 of those light duty
17 vehicles are located in a single metropolitan
18 statistical area. This is all described in
19 10 CFR Part 490. There is a list of light
20 duty vehicles excluded from the program, that
21 include vehicles taken home overnight,
22 emergency vehicles, rental vehicles and
23 others.

24 Currently, to comply under the
25 program, a covered fleet can acquire

1 alternative fuel vehicles, purchase biodiesel
2 for use in blends of B20 or higher to a limit
3 of 50 percent of annual requirements, us or
4 purchase credits and/or apply for exemptions
5 in some limited cases.

6 DOE is sometimes asked if hybrids
7 are now allowed to obtain credits under this
8 portion of the program, and the answer is no,
9 because they do not meet the definition of
10 an alternative fuel vehicle, in this case, an
11 electric vehicle. And in Title 6 of the
12 statute an electric vehicle is defined as a
13 vehicle that is primarily powered by an
14 electric motor. While more energy efficient,
15 today's hybrids do not have this
16 characteristic.

17 Under the ongoing program, if a
18 fleet wants acquire medium or heavyduty,
19 heavy duty alternative fuel vehicles, the
20 fleet is only allowed credit after the light
21 duty vehicle requirements are met.

22 Fuel providers have an alternative
23 fuel use requirement, but states do not.
24 Many states, however, have added legislation
25 or executive orders or have other policies

1 that require usage of alternative fuel and
2 flexible-fuel vehicles and other AFVs.

3 The total impact of the on-going
4 program is to add about 10,000 alternative
5 fuel vehicles per year to cover fleets,
6 without about 100,000 alternative fuel
7 vehicles added to date. The vehicles are
8 roughly half the 85 flexible fuel vehicles,
9 mainly purchased by state fleets and half
10 gaseous fuel vehicles per just by states and
11 gas utilities.

12 States account for 80 percent of
13 the vehicle requirements in the program, so
14 they are a much bigger part of this program
15 than the fuel providers.

16 Additionally, 11.5 million gallons
17 of biodiesel have been reported to us as
18 having been consumed by covered fleets,
19 although I suspected it's higher than that
20 and covered fleets have cumulatively traded
21 5400 access credits.

22 This slide reviews the compliance
23 methods sought by fleets. As you can see,
24 AFV acquisition continues to be the most
25 predominant form of compliance while

1 biodiesel has grown, but stabilized. Use of
2 banked and purchased credits has gone up a
3 bit over the years, but exceptions have held
4 steady at a very modest level, primarily
5 because of why it spread availability of
6 biodiesel throughout the country and credits.

7 In all, states and fuel providers all
8 virtually are in compliance.

9 This shows the rise in biodiesel
10 usage since it was added as a way to comply
11 with requirements. Credit trading is leveled
12 off at about 1,000 or so credit trades per
13 year.

14 Now I'll discuss alternative
15 compliance. That's the reason that we're all
16 here. EPACT of 2005 Public Law 109-58 was
17 signed into law by President Bush on August
18 8, 2005. The statute maintained the existing
19 emphasis on AFV acquisitions and use of
20 alternative fuels and biodiesel. Section 703
21 of EPACT 2005 or alternative compliance only
22 affects fleets that actually request and
23 receive a waiver from DOE.

24 There are some minimum
25 requirements set forth in the NOPR for

1 applying for the waiver: the model year for
2 which the waiver is being sought; a petroleum
3 reduction plan for the model year; the number
4 of alternative fuel vehicles operated by the
5 fleet; and the number of light duty vehicles
6 to be acquired during the model year and the
7 calculated number of vehicles to be waived;
8 the average annual fuel consumption per light
9 duty vehicle and gasoline gallon equivalence;
10 and finally, a calculation of the amount of
11 petroleum that must be reduced during the
12 model year. The whole idea is to get the
13 numbers together to come up with final
14 calculation and have it pass muster with DOE.

15

16 From the day DOE receives a
17 complete request, it has 45 working days to
18 respond to a waiver request. If the minimum
19 information is incomplete, in some cases it
20 could cause DOE to ask the fleet to resubmit
21 the waiver application and turn back the
22 clock on the submission to Day 1.

23 The next several slides provide
24 some details of the alternative compliance
25 option.

1 The covered person or state must
2 apply to DOE for a waiver to pursue
3 alternative compliance. To obtain a waiver,
4 the covered person or state must make a
5 showing that it will reduce petroleum and the
6 burden is on the requester to demonstrate
7 that the petroleum reductions they are
8 pursuing are real. The good thing for some
9 fleets is that they will have fewer
10 restrictions with regard to vehicle types and
11 technologies utilized to meet their
12 requirements. For instance, they can use
13 hybrid vehicles, replace larger vehicles with
14 Neighborhood Electric Vehicles, acquire
15 medium and heavy duty alternative fuel
16 vehicles and use them all toward their
17 petroleum reductions.

18 In summary, fleets now have the
19 opportunity to use some excluded vehicles or
20 vehicles counted toward requirements, but not
21 currently receiving credits to meet their
22 requirements. Or covered fleets may choose
23 strategies that reduce VMT as well such as
24 combined trips, better planning and schedule,
25 or use of more public transportation.

1 Note that waiver requests must
2 encompass the whole covered portion of the
3 fleet and are not going to be granted for
4 less than a full model year.

5 Because of the wide variety of
6 technologies and strategies available for
7 fleet petroleum reduction, no exemptions are
8 allowed while operating under a waiver.

9 Applying for a waiver under the
10 alternative compliance process involves two
11 steps. First, the covered person or state
12 must determine the amount of petroleum
13 reduction that must be met to get a waiver.
14 The second step is to describe the plan for
15 how the covered person or state will achieve
16 this petroleum reduction amount.

17 Each of these steps will be
18 described in the next few slides.

19 Again, covered persons or states
20 must submit the application including the
21 information to DOE and we will respond within
22 45 working days.

23 Step one is to determine the
24 petroleum reduction amount needed for this
25 waiver program. DOE is looking at the annual

1 petroleum reduction requirement equivalent to
2 the amount of alternative fuel the fleet
3 would have used if the cumulative AFVs in
4 inventory, including cumulative AFV
5 requirements, operated 100 percent of the
6 time on alternative fuel.

7 The first is to determine the
8 number of cumulative AFV requirements. This
9 is equal to the number of AFVs in your fleet,
10 plus those that that would be required in the
11 waiver year, minus those that you plan to
12 retire this year. During subsequent years,
13 you will also need to add in the number of
14 AFV requirements waived in the previous year.

15 The amount of petroleum that needs
16 to be displaced in a waiver is the cumulative
17 AFV requirements that you just calculated
18 multiplied by the average fuel use your light
19 duty vehicles.

20 The slide here shows how this
21 would work and there is a much longer example
22 in the NOPR itself in the preamble section.
23 But essentially what we are doing here is
24 counting cumulative AFV requirements plus
25 actual AFVs and subtracting out vehicle

1 retirements. At some point these numbers
2 should stabilize for the fleet -- the length
3 of time depending on several factors.

4 In this example, the fleet applies
5 for a waiver in Waiver Year 1 and carries
6 forwards its AFVs in inventory and adds its
7 new annual AFV requirements, subtracts AFVs
8 to be retired and comes up with a cumulative
9 requirement of 29 for the waiver year. In
10 Year 2, the 20 AFVs in inventory are brought
11 forward plus the 9 AFVs waived in Waiver Year
12 1. Then subtract the AFVs retired at -2 and
13 add the new annual requirements. You now end
14 up with 36 cumulative AFV requirements.

15 The second step is to describe the
16 plan that the covered person or state plans
17 to implement to achieve the required
18 petroleum reduction. The plan must be
19 targeted to the specific circumstances of the
20 proposing organization, and needs to be
21 focused on motor vehicles.

22 We said before that the
23 alternative compliance provision is proposed
24 to open up the number of compliance
25 possibilities for fleets. Here are some

1 examples. But there are certainly many other
2 types of technologies and methods that fleets
3 can use. They have a real opportunity here
4 to be creative or entrepreneurial in their
5 approaches.

6 These next few slides give an
7 example of a covered entity. The first step
8 is to determine the amount of petroleum
9 reduction that must be achieved. In this
10 case, that amounts to 7,500 Gasoline Gallon
11 Equivalents, or GGEs for 15 cumulative AFV
12 requirements with average per vehicle fuel
13 use of 500 gallons per year and VMT of 15,000
14 miles per year.

15 Next, the covered entity needs to
16 figure out how much petroleum reduction can
17 be achieved by the different strategies
18 available to the fleet. One option is to use
19 B20 in the fleet's diesel vehicles. To
20 achieve the 7,500 GGE reduction required
21 would mean the fleet would have to use 6,620
22 GGE of B100 or 33,100 gallons of B20. And
23 biodiesel does have a bit of a higher energy
24 content than gasoline.

25 Another option is to use E85.

1 Since the energy content of this fuel is less
2 than petroleum, the fleet would have to use
3 10,417 GGE of E85 to achieve the 7,500 GGE
4 petroleum reduction required.

5 And here is yet another example
6 where the fleet is purchasing hybrid electric
7 vehicles. This would include 5 hybrid
8 vehicles with average fuel economy of 55
9 miles per gallon that use 1,364 GGE per year.

10 Although these are more efficient, this
11 reduces petroleum use only by 1,136 GGEs, and
12 so in itself it is not a complete solution
13 for the example fleet. This fleet will also
14 need to do something else, like use 6,364 GGE
15 of E85 to meet the total petroleum reduction
16 requirement. That comes out 8,839 actual
17 gallons of E85.

18 This slide reviews the three
19 requirements for covered entities pursuing
20 alternative compliance. First, they must
21 submit an application to DOE no later than
22 March 31 prior to the model year for which
23 they are applying. DOE will decide whether
24 to grant the waiver based on this submission.

25 But it may end up going back and forth with

1 the fleet if it does find that information is
2 not sufficient and if it is grossly
3 insufficient, it will stop the clock. But if
4 it is just a matter of a few items normally
5 we can get the ball rolling again pretty
6 quickly.

7 Second, they must submit an annual
8 report due December 31 after the close of the
9 model year for which the waiver was granted,
10 showing that petroleum reductions were
11 achieved.

12 Third, they must retain records
13 for three years following the need of the
14 model year.

15 This slide shows that covered
16 persons and states are being provided another
17 flexible measure under alternative
18 compliance. If fleets experience problems
19 with implementation, DOE will consider, on a
20 case-by-case basis, allowing credits
21 accumulated under the ongoing program under
22 Section 508, to be used to offset petroleum
23 reduction shortfalls. This will allow those
24 wanting to apply for new waivers to exhibit
25 compliance and to avoid having a waiver

1 disallowed in the future or potentially avoid
2 penalties.

3 DOE will use data submitted by the
4 fleet on its annual gallons used to determine
5 conversion of the credit. This slide gives
6 an example of how that will work.

7 Fleets that show they have over-
8 complied as reported in their annual reports
9 can request that DOE roll over these excess
10 petroleum reductions in a future year. They
11 must submit a request to do this to DOE. The
12 petroleum overage can be used by the fleet
13 itself but cannot be traded or sold.

14 As previously mentioned, annual
15 reports are due December 31 following the
16 close of the waiver model year. The annual
17 report must be on corporate or agency
18 letterhead and say that signing official
19 certifies that the information is correct.
20 The information included in the report must
21 include the total number of GGE units of
22 petroleum consumed by the covered fleet. The
23 total number of GGE units of alternative fuel
24 consumed. The amount of petroleum reduced
25 through alternative compliance and the

1 projected baseline fuel consumption level for
2 the following model year if the fleet or
3 covered person intends to apply for another
4 waiver.

5 Same as the current AFV
6 acquisition program, records must be kept by
7 a waived fleet for a minimum of three years
8 following the end of the waiver.

9 Here are the ways you can get
10 written comments to me. DOE will be
11 accepting comments until August 7, 2006 as
12 noted in the Federal Register notice. The
13 best way to submit these comments right now
14 is to send them to me directly at the email
15 address and mail address listed. If you do
16 not have the ability to make an electronic
17 signature on the comments you should also
18 send a signed hard copy by U.S. mail to the
19 listed mailing address.

20 DOE will review the comments and
21 issue the final rule. I do not know the
22 exact timing, but we will work on it as soon
23 as the comments are reviewed. In the future,
24 DOE will issue additional guidance as
25 necessary.

1 I am most pleased to be able to
2 make the preceding information available to
3 everyone. Now I will entertain questions
4 from meeting participants before going
5 forward with the next segment consisting of
6 public comments. I guess if anyone is
7 interested.

8 MR. SCHOMBER: Hi Linda. Bob
9 Schomber from Florida Power and Light. In
10 calculating the alternative vehicle
11 requirements for the given year, do we step
12 through the normal program to come up with
13 the number?

14 MS. BLUESTEIN: You would use the
15 same process, you'd do --

16 MR. SCHOMBER: What we currently
17 use?

18 MS. BLUESTEIN: Right. You would
19 look at the total number of light duty, non-
20 excluded vehicles in your fleet and multiply
21 it by the percentage, which in your case is
22 90 percent. In the state's case, it would be
23 75 percent.

24 MR. SCHOMBER: Specific question
25 here. We still have some banked credits. As

1 part of that computation, you subtract out
2 the banked credits.

3 MS. BLUESTEIN: You could apply
4 them.

5 MR. SCHOMBER: That's what I mean,
6 apply.

7 MS. BLUESTEIN: If you wanted to

8 MR. SCHOMBER: So we can apply
9 those --

10 MS. BLUESTEIN: Well, I --

11 MR. SCHOMBER: -- and other
12 credits you're talking about at the end of
13 the NOPR here.

14 MS. BLUESTEIN: It's the 508 --
15 okay, there's two things going on here.
16 There are credits that you have banked or
17 purchased from another fleet. And they're in
18 your bank, you know, that you currently can
19 use if you run short or you can sell to
20 another fleet. Those are the credits that
21 you've accumulated under Section 508.

22 But if you're in this particular
23 waiver program and you underestimated the
24 amount of petroleum reduction for the year
25 and you can show us that you actually had

1 more petroleum reduction, that petroleum
2 reduction can be rolled over into another
3 waiver year.

4 MR. SCHOMBER: Right. Against the
5 waiver kind of an application.

6 MS. BLUESTEIN: Right, right.

7 MR. SCHOMBER: Okay, so the two
8 kind of credits are --

9 MS. BLUESTEIN: They're different.

10 MR. SCHOMBER: Are different.

11 MS. BLUESTEIN: Right.

12 MR. SCHOMBER: But the old credits
13 are still good.

14 MS. BLUESTEIN: They're still
15 good.

16 MR. SCHOMBER: That's where I'm
17 going here.

18 MS. BLUESTEIN: They're still
19 good. You can sell them.

20 MR. SCHOMBER: We paid for those -
21 -

22 MS. BLUESTEIN: Right. You can
23 sell them, if there's a shortfall for some
24 reason, but you have to let us know what the
25 reason is and then we have to say okay. You

1 can actually use those credits, you know,
2 because we know that you're coming into this,
3 making an estimate. I mean you're not going
4 to know exactly how much petroleum you're
5 going to reduce. So the credits give you
6 wiggle room, right.

7 MR. SCHOMBER: Good.

8 MS. BLUESTEIN: Okay. John, I
9 think you were next.

10 MR. LEONARD: Jon Leonard from
11 TIAX. The slides are not numbered, but I'm
12 referring to the ones as described plan for
13 achieving petroleum reduction. The bottom
14 bullet "nonroad vehicles may be used if
15 replaced on onroad vehicles."

16 MS. BLUESTEIN: Yes, I was
17 thinking there particularly of neighborhood
18 electric vehicles. I guess what we like to
19 see is that they're replacing a current
20 vehicle in your fleet, a light duty or heavy
21 duty vehicle that's currently doing the work.

22 That way, you have a way to compare against
23 the vehicle that you're replacing.

24 So I just -- you could actually
25 just use your light duty vehicle usage, your

1 fuel usage, but at any rate, we do want to
2 see some kind of replacement of a vehicle
3 that's in your fleet.

4 Now I know that there have been
5 some questions and I know this will probably
6 come up, so I'll just go ahead and say it.
7 But some people commented on forklifts and I
8 guess the way that I look at forklifts are --
9 you know, they aren't onroad vehicles, but if
10 you can show DOE that the infrastructure used
11 for the alternative fuel forklifts helps,
12 actually justify or helps you with your
13 transportation fleet or shared with your
14 transportation fleet, then I guess we could
15 consider those.

16 MR. SCHOMBER: You are considering
17 them as transportation related?

18 MS. BLUESTEIN: I am thinking
19 about this. This is not in writing anywhere.

20 This is just something I'm thinking about
21 implementing because we did get a lot of
22 questions about it. And there are a number
23 of propane, natural gas and electric
24 forklifts. But you would have to -- it would
25 have to be a new forklift replacing a

1 gasoline or diesel forklift. And it would
2 have to be sharing infrastructure or it
3 somehow is justifying within the
4 justification of your transportation fleet.

5 MR. LEONARD: Just for the record,
6 there are some very well set up guidelines in
7 the Carl Moyer Program in California to
8 ensure that exactly that happens.

9 MS. BLUESTEIN: The Carl Moyer
10 Program, I looked into it a little bit. It's
11 a bit different that it's a grant program,
12 correct?

13 MR. LEONARD: Right.

14 MS. BLUESTEIN: With a different
15 goal, I think.

16 MR. LEONARD: Right.

17 MS. BLUESTEIN: I'd be inclined to
18 do it maybe slightly differently, but I'll
19 look at that.

20 MR. LEONARD: You would work from
21 that anyway.

22 MS. BLUESTEIN: Right.

23 MR. LEONARD: Thanks.

24 MS. BLUESTEIN: Bill.

25 MR. WEST: Just a process

1 question. We were talking a little bit
2 earlier about what the next steps and whether
3 guidance is going to come first or are you
4 going to do the proposed rule, final rule.
5 Can you clarify what the process is?

6 MS. BLUESTEIN: I think we'll
7 probably be working on those simultaneously
8 because I think what works for me the best
9 just in terms of my own process is to do the
10 guidance and use that as the way to write the
11 rulemaking.

12 So we have a guidance that
13 actually that was the first thing that we did
14 and then it was decided we'd do a rulemaking.

15 So I actually have the baseline of a
16 guidance together so it would just be a
17 matter of going back and changing that and
18 tweaking it because there's some differences
19 between the NOPR and the original guidance
20 that I did. We made some changes along the
21 way.

22 MR. WEST: Just from our
23 perspective, I think we'd like to see the
24 guidance first before we decide on the final
25 rule, so it would probably clarify a lot of

1 questions.

2 MS. BLUESTEIN: I think for me I
3 couldn't issue the guidance until I had the
4 final rule. I just don't think that I can do
5 that.

6 MR. KRYTSINGER: Cal Krytsinger
7 with AMEREN Corporation.

8 I have three points, questions.
9 One, would you -- I guess you would treat
10 other offroad equipment the same way then,
11 for example, backhoes as you're treating a
12 forklift as part of total fuel consumption,
13 on other words.

14 MS. BLUESTEIN: Yes.

15 MR. KRYTSINGER: So if we used an
16 alternative fuel on backhoes or that type of
17 equipment?

18 MS. BLUESTEIN: It would have to
19 be -- you'd have to be, using, sharing the
20 infrastructure with your transportation
21 fleet, okay? And it would have to be an
22 alternative fuel backhoe.

23 MR. KRYTSINGER: Or the use of
24 biodiesel.

25 MS. BLUESTEIN: Or biodiesel,

1 right.

2 MR. KRYTSINGER: Okay. Point two
3 is you talked about in our telephone
4 conversation this would be over and above any
5 state or governmental mandates, the amount of
6 use required. For example --

7 MS. BLUESTEIN: Okay. Yes, one
8 thing that's come up is smaller level blends.

9 And there is this renewal fuel standard
10 program and there is a program that has,
11 let's see, well, there are state programs
12 where they're requiring B2 or B5 or some low-
13 level blend. We would not give you credit
14 for the 2 percent biodiesel or the 5 percent
15 biodiesel or 10 percent ethanol. It would
16 have to be what you're using above and beyond
17 those requirements.

18 MR. KRYTSINGER: Third point is if
19 we're currently, we currently have programs
20 that are above those requirements, we can
21 still apply those. It doesn't have to be
22 something new after the new rule date.

23 MS. BLUESTEIN: You mean you're
24 voluntarily using higher level blends than
25 are required, like what type of blends?

1 MR. KRYTSINGER: For example,
2 well, if we're using more PDOT biodiesel and
3 we're getting credit for currently --

4 MS. BLUESTEIN: Right.

5 MR. KRYTSINGER: Or if we expand
6 our use of biodiesel before the rulemaking,
7 we can still -- it doesn't have to be after
8 the effective date of the new rule.

9 MS. BLUESTEIN: I think it would
10 have to be after the effective date of the
11 new rule.

12 MR. KRYTSINGER: There's no
13 incentive for us then to do anything until
14 after the new rule comes out.

15 MS. BLUESTEIN: That's up to you.
16 I mean I can't tell you whether there's an
17 incentive for you to use more biodiesel in
18 the interim.

19 MR. KRYTSINGER: But this isn't an
20 incentive anyway. We would not be allowed to
21 use anything for this program, if we come out
22 with it before the rulemaking.

23 MS. BLUESTEIN: We're not going to
24 grandfather things in before the final
25 rulemaking date.

1 MR. O'CONNOR: Linda, just one
2 question on the reporting requirement. I
3 think it also may be in the waiver
4 application requirement. And that is
5 requirement to show the total number of GGE
6 units of petroleum consumed. Is that the
7 total units for the entire fleet, the entire
8 light duty fleet or the entire light, medium,
9 and heavy duty fleet?

10 MS. BLUESTEIN: Is what you're
11 referring to what they need to supply as one
12 of the minimum requirements? Is that what
13 you're talking about?

14 MR. O'CONNOR: Right, I am looking
15 at the annual reporting requirement.

16 MS. BLUESTEIN: It's on their non-
17 covered, I'm sorry, on their covered light
18 duty vehicle. I mean, you can look across
19 the entire fleet of light duty vehicles,
20 okay?

21 MR. SCHOMBER: Linda, if you go to
22 paragraph 490.803(d)(iii)(2), and I'll just
23 tell you what it says there. I kind of had
24 to step through all the numbers myself. It
25 talks about the plan must provide for the

1 reduction of petroleum motor fuel by the
2 states of covered person's own vehicles and
3 therefore may not include incentives for
4 third parties to reduce their petroleum use
5 or petroleum reductions that are not
6 transportation related.

7 I understand where you're going
8 and indeed agree with it on other than not
9 giving credit for incentive programs outside
10 of your company and that sort of thing. But
11 I'm a little concerned that some day after
12 you've been promoted three times and become
13 Secretary of Energy and the current counsel
14 is the head counsel for the Department,
15 somebody may come back and interpret that to
16 mean owned to exclude leased vehicles. Many
17 of us in this room lease parts of our fleet,
18 and I think that they're covered under the
19 words "owned/leased, operated/leased" and
20 otherwise controlled that are used elsewhere
21 in the NOPR.

22 Perhaps I'd like to suggest to you
23 clarify that in this paragraph so we don't
24 have someone else or at a subsequent date not
25 making that judgment. I'm correct in that

1 assumption, am I not?

2 MS. BLUESTEIN: I'm sorry?

3 MR. SCHOMBER: I'm correct that we
4 can use the fuel in a leased vehicle that we
5 have --

6 MS. BLUESTEIN: Right. As long as
7 it is under your control, the vehicle is
8 under your control. You're deciding how it
9 is used everyday you're fueling it.

10 MR. SCHOMBER: Okay, so I prefer
11 that the words actually say that as opposed
12 to the words owned, because the word owned
13 means -- I'm not sure what owned means.

14 MS. BLUESTEIN: Okay.

15 MR. FEEHAN: Linda, when do you
16 think you're going to issue some verification
17 on the use of the nonroad vehicles helping to
18 comply?

19 MS. BLUESTEIN: It's going to have
20 to be along with the guidance and the final
21 rulemaking, which will be done
22 simultaneously. I'm going to look into it.
23 It's something because of looking at the
24 comments I'm going to consider. So I need to
25 do a little bit more research on it, but it's

1 something that, you know, I'm interested in
2 finding out more about and potentially adding
3 those in some way. But figuring out what
4 language to use and exactly how it is going
5 to work it's going to take a little while to
6 figure it out.

7 MR. FEEHAN: And what's the time
8 you're thinking?

9 MS. BLUESTEIN: The August 7th is
10 the deadline for comments, the 45-day comment
11 period and then you know it's going to take
12 me a few weeks to go over the comments and
13 decide how we're going to apply them. We'll
14 write the final rule. That might take
15 another month. I'm hoping that by the end of
16 the calendar year we can have a final rule
17 and guidance published. That's really quick.

18 If there are no major enormous issues and
19 we're just kind of tweaking bits and pieces
20 of this, I don't see it being an enormous
21 undertaking.

22 MR. SCHOMBER: The March 31st time
23 frame, the date for application. I recognize
24 just thinking of the calendar that probably
25 kind of fits there the need to get time to do

1 every step. There's one little hiccup there
2 in that the manufacturers generally do not
3 define their vehicle offerings until later in
4 the year, specifically around May or June.

5 So we may at that time not know
6 whether we can comply with some hybrid that's
7 going to come out, although they usually say
8 they're going to do it. But sometimes they
9 don't until June or so because the actual
10 model year offerings which starts in August
11 are not defined until the summer time.

12 Is there a possibility that they
13 could be pushed ahead or would that jam you
14 up so much that you can't get things done by
15 year end?

16 MS. BLUESTEIN: I mean the concern
17 is that it's all done on a model year basis,
18 so that you need to know by September 1st
19 what you're doing. And I need to have that
20 calculated out. So I'm afraid it does, you
21 know, the manufacturer cycle does sort of
22 bump against that. It could be a problem for
23 some people. I'm not really sure how to
24 reconcile that one.

25 MR. SCHOMBER: Well, the roll-

1 forward, roll-back provision gives us some
2 flexibility too. So even if the plan
3 doesn't, isn't defined properly at that time
4 --

5 MS. BLUESTEIN: Right, there is
6 some flexibility.

7 MR. SCHOMBER: That helps.

8 MR. WEST: One clarification
9 question. Could you give me what your
10 current thoughts are by what you mean by
11 sharing infrastructure with the
12 transportation fleet in the area of nonroad?

13 MS. BLUESTEIN: Sharing
14 infrastructure with the transportation fleet?

15 MR. WEST: Right.

16 MS. BLUESTEIN: If you can just
17 show us that somehow this activity with your
18 forklifts or whatever somehow relates back to
19 sharing infrastructure, you know, refueling
20 or whatever else you have in the way of
21 infrastructure with your transportation
22 fleet.

23 In other words, if there is some
24 kind of shared benefit going on there.

25 MR. SCHOMBER: Loading and

1 unloading cargo from trucks? Yes?

2 MS. BLUESTEIN: I'm sorry, I'm not
3 sure what you're saying.

4 MR. SCHOMBER: I was suggesting
5 that sharing of infrastructure being the
6 loading and unloading of cargo from the
7 fleet.

8 MS. BLUESTEIN: I'm not really
9 quite sure how that's sharing infrastructure.

10 MR. SCHOMBER: You use the same
11 docks and the same --

12 MS. BLUESTEIN: I'm talking about
13 the refueling infrastructure.

14 MR. SCHOMBER: Ah, okay.

15 MS. BLUESTEIN: This program is
16 concerned with --

17 MR. SCHOMBER: So you want them to
18 use the biodiesel or use the same fuel that
19 the fleet uses?

20 MS. BLUESTEIN: Well, the same
21 fueling infrastructure.

22 MR. SCHOMBER: Oh, that's easy.
23 Okay.

24 MR. WEST: In the case of
25 electrics, you're saying I guess one way of

1 interpreting this would be you recharge your
2 electric cars and you recharge your
3 forklifts. Is that sharing --

4 MS. BLUESTEIN: With the same
5 recharging unit. You know, you make an
6 investment based -- if you could show us that
7 you're utilizing your investment better for
8 your transportation fleet, that somehow it
9 relates to the transportation fleet. It's
10 not just a separate thing, that there's an
11 integrated approach to what you're doing.

12 MR. WEST: All our forklifts, for
13 example, are part of our transportation
14 fleet. I mean, they're all under our
15 transportation department.

16 MS. BLUESTEIN: Do you mind me
17 asking you how many forklifts you have in
18 your fleet?

19 MR. WEST: Actually we have at
20 this time it's around 190 and only a portion
21 of those are electric.

22 MS. BLUESTEIN: I see.

23 MR. WEST: We could and are
24 thinking of going all electric.

25 MR. SCHOMBER: We have 250 and to

1 be candid with you it's an unexploited
2 opportunity for fleets in general, I think
3 you would want to permit.

4 MS. BLUESTEIN: And how many --
5 you said you had 250. How many of those are
6 alternative fuel?

7 MR. SCHOMBER: Very few. I can't
8 give you a number but if I was to guess, I
9 would guess 20 to 30 or something like that.
10 Most of the electric ones are perceived by
11 the real world operating people as ones that
12 you would want to use in food handling kind
13 of capabilities or completely enclosed
14 capabilities. And even though the
15 performance is good on the electric ones, the
16 mindset out there in the real world is that
17 let's stick with the internal combustion
18 engine.

19 And this would be an opportunity
20 for the DOE to promote a change there I think
21 would be in the national interest and would
22 not be too painful for the industry.

23 MR. FEEHAN: But a lot of the
24 internal combustion engine forklifts are
25 propane, which is --so if you have 250, you

1 may have 80 percent of those are maybe
2 propane or 50 percent.

3 MR. SCHOMBER: Maybe 30 percent.

4 MR. FEEHAN: Okay, so you have
5 already --

6 MR. SCHOMBER: We're already there
7 with some of them.

8 MR. FEEHAN: Which is forgotten by
9 a lot of people, because propane is so
10 standard as the fuel for forklift trucks that
11 they don't incorporate that as one of the
12 alternative fuels. You have to keep that in
13 the back of your mind.

14 MS. BLUESTEIN: Well, I would look
15 at any new alternative fuel forklift you
16 would be acquiring as a result of this waiver
17 as potentially fair game if we do this.
18 Which like I said, I'll do some research on
19 it and make a decision and we'll go forward.

20 I mean, I'm favorably inclined from what
21 I'm hearing but at this moment I can't
22 promise you that I will do it. I have to
23 look into it.

24 MR. KRYSTINGER: Just as far as
25 sheer numbers we've got 150 backhoes and

1 about 300 trenchers that are all using
2 straight diesel now. With a biodiesel blend,
3 we could reduce our petroleum use.

4 MS. BLUESTEIN: And I'm not sure
5 that -- I would have to also really do some
6 hard thinking about whether we would allow
7 that as well. I mean in something other than
8 your medium and heavy duty on-road vehicles,
9 so those are things that I would consider,
10 but I would highly recommend, because I don't
11 feel comfortable commenting any further on
12 it, that if you have questions about it or
13 you want to bring these things up, supply
14 written comments to me.

15 And any kind of industry
16 statistics or information on these types of
17 things would be helpful as background
18 information.

19 So I guess just to summarize what
20 my thinking is on it, my thinking is that it
21 would have to be a new piece of equipment to
22 your fleet that would operate on alternative
23 fuels, that would be a piece of -- it could
24 be a piece of offroad equipment, but it would
25 have to also share infrastructure. You'd

1 have to show that it's sharing refueling or
2 somehow contributing to the way that your
3 entire transportation fleet is running. It
4 is operationally contributing in some way
5 like infrastructure, whatever, to
6 transportation.

7 Are there any other comments or
8 questions?

9 (No response.)

10 Okay, we can proceed with the rest
11 of the hearing.

12 I think what I'd like to do is --
13 you can stay at your seat if you'd like and
14 use the microphone where you're seated.
15 That's why we put them out there. But I
16 think what we'll do is go in order and I'll
17 go and sit down and have an opportunity to
18 ask you questions after you give your
19 presentation.

20 The first person up to bat is Rich
21 Tempchin from the Edison Electric Institute.

22 MR. TEMPCHIN: Thanks. Good
23 morning. I'm Rick Tempchin, Director of
24 Retail Distribution Policy for the Edison
25 Electric Institute. I've submitted my oral

1 comments for the record and I'll stick by
2 them for the most part. I want to thank you
3 for having this hearing and inviting us all
4 to come here. We appreciate the opportunity
5 to comment on the alternative compliance
6 provisions.

7 EEI supports the provisions of the
8 Act and we commend and thank DOE and its
9 staff, all of you here, you did a terrific
10 job on this proposed rule. I know it was a
11 lot of work. We've been working on this it
12 seems like a long time to get to this point.

13 And so obviously you listened to the
14 comments that you got up to this point and
15 incorporated them as best you could and we
16 really appreciate that.

17 There are a number of EEI members
18 here today that are going to make comments
19 and I'll let them speak for themselves. For
20 the record, EEI is also a member of the
21 Electric Drive Transportation Association and
22 the National Association of Fleet
23 Administrators.

24 I'd like to make -- I have five
25 questions to ask, a couple we've already

1 covered. These are from EEI members who
2 weren't able to be here today. The first one
3 is the question about flexibility. The
4 deadline, the March 31st deadline. Bob gave
5 a comment about that and there seems to be at
6 least one other utility and maybe others that
7 feel like maybe that's a little early for
8 making commitments, so take that into
9 consideration. Anything you can do for
10 flexibility would be appreciated.

11 The other question, the second
12 question is regarding the requirement to
13 document, provide documents or certification
14 by a responsible official showing that the
15 fleet is in compliance with applicable Clean
16 Air Act vehicle emission standards. The
17 company that asked the question would like an
18 example. You know, what does this look like?

19 Is there some kind of -- something already
20 in place or a standard form or something?
21 Utilities typically who would like to know
22 what they're looking for, rather than going
23 around trying to find somebody to sign
24 something and coming up with something
25 themselves.

1 The third question we've talked
2 about already or I think you answered in your
3 slide presentation, the question about how do
4 you calculate the value of a gasoline gallon
5 equivalent value of a credit. I think that
6 question was answered in the slides.

7 The fourth question is regarding
8 the -- do these waiver provisions affect the
9 exemption process? If yes, how? The
10 existing exemption process.

11 And the fifth question is
12 regarding dual-fuel vehicles and I'm not sure
13 if this is already answered somewhere in
14 earlier guidance or not, but -- and I didn't
15 have a chance to research it, but the idea of
16 earning credits for dual-fuel vehicles, how
17 much of the alternative fuel does it need to
18 use to get a credit and if it uses -- doesn't
19 meet that standard, then can it -- how do you
20 earn or how do you track those equivalent
21 gallons for this program, for this proposed
22 program?

23 That's all I have. Again, thank
24 you for a job well done and the last point is
25 we haven't talked about it in terms of

1 timing, but I guess everybody is targeting
2 model year 2008 for getting this done, so
3 anything you can do to expedite it will be
4 appreciated. Thanks.

5 MS. BLUESTEIN: Okay, I guess --
6 give me some idea about this issue with the
7 timing. We've discussed it a little bit, on
8 the request. When do you propose we do the
9 timing? How do you propose we do that?

10 MR. TEMPCHIN: Well, I'll let the
11 other folks speak to this also, but
12 flexibility, I don't know, does it need to
13 have a hard and fast deadline? Or --

14 MS. BLUESTEIN: I guess one way,
15 one thing that we could do and I'm just
16 throwing this out. I don't know this is how
17 we'll do it in guidance, but one
18 consideration, just to get a conversation
19 started about it is maybe what you could do
20 is submit sort of more or less an outline of
21 how you think you're going to do it using
22 whatever vehicles you know about at the time
23 that we can say okay, this looks good by
24 March 31st and then you can update it, maybe
25 a little bit later on and say okay, here are

1 the -- we couldn't get these vehicles, but
2 we're getting these instead or something like
3 that.

4 I think we do need to have some
5 time to look it over and to write a response
6 and there is going to be quite a bit of back
7 -- there could be -- this is just based on
8 our experience with doing exemptions. There
9 could be quite a bit of back and forth
10 between the fleets and us to get to some kind
11 of resolution on it and you know, you need
12 time to plan and I just can't see doing it
13 any later than March 31st, but if we could
14 get a proposed plan and then maybe we give
15 you the preliminary okay and then say you
16 know, give us the final some time in April or
17 May or whatever it is so that you can give us
18 your finalized version.

19 Sometimes we've gotten in the past
20 exemption requests and then you know
21 something will happen like I don't know what,
22 but they'll have to come back and amend the
23 request. I think you can go back and amend
24 it a little bit later on. Not an enormous
25 amendment, but maybe a slight adjustment here

1 and there.

2 MR. TEMPCHIN: That sounds
3 reasonable.

4 MR. SCHOMBER: Linda, you were
5 flexible in dealing with our problems with
6 the hurricane and I want to say thank you and
7 if you kind of dealt with this thing in that
8 way when most of the vehicle offerings are
9 defined in March, but if there was some
10 flexibility there would work fine.

11 MS. BLUESTEIN: Yes, like you
12 said, there is a chance for you to use your
13 508 credits under the other program and to
14 rollover excesses. So there's a little bit
15 of wiggle room there and there needs to be
16 because again, you're always giving us an
17 estimate preceding the model year. You never
18 know exactly what your fuel usage is really
19 going to be. You don't know which cars are
20 going to get into a crash.

21 You know, so there's a lot of
22 variables that could really effect your
23 ultimate fuel usage or a hurricane or
24 something could, I would imagine.

25 MR. TEMPCHIN: Especially the

1 first years are tough for everybody.

2 MR. SCHOMBER: To Rick's comment
3 about the gasoline gallon equivalent of a
4 credit. For the credits under 508, I presume
5 you would want us to continue to use the 450
6 gallons that is in 508, which you may
7 redefine if you want to at any time.

8 MS. BLUESTEIN: I think what we're
9 going to stick by it looks like right now is
10 what my thinking was in writing the notice
11 and, you know, what I think probably works
12 out the fairest is try to get a gauge of what
13 you use in your average light duty vehicles.

14 And if you can't come up with that number,
15 some kind of industry average. And I don't
16 know that 450 is the number, but I do know
17 that there are, you know, averages for
18 business fleets in some of the publications
19 like Bobbit publication and things like that.

20

21 So if it is just impossible for
22 you to come up with a number for your own
23 fleet the first year, because I think after
24 the first year you'll probably have a much
25 better idea. You could go -- you could use

1 some kind of industry standard or number and
2 just tell us where you got that.

3 MR. SCHOMBER: We have no problem
4 coming up with our number or an industry
5 number. But I was specifically addressing
6 the computation you make of the vehicles
7 alternative vehicles required to be purchased
8 in which section 508 says you use 450
9 gallons.

10 MS. BLUESTEIN: No, that's not --
11 that's not true.

12 MR. SCHOMBER: To be redefined by
13 the Secretary.

14 MS. BLUESTEIN: No, you're mixing
15 things up. A credit is an alternative fuel
16 vehicle credit.

17 MR. SCHOMBER: Right.

18 MS. BLUESTEIN: Biodiesel, it's
19 450 gallons of biodiesel.

20 MR. SCHOMBER: Right, that's what
21 I'm talking about.

22 MS. BLUESTEIN: But you know,
23 biodiesel has a different energy content than
24 other fuels. It's used in a different way.
25 So we're not going to use that number. We're

1 going to use the average light duty -- the
2 average amount your light duty vehicles use
3 in your fleet.

4 MR. SCHOMBER: Okay.

5 MR. KRYSTINGER: Linda, when you
6 evaluate our performance for the year, you're
7 evaluating our actual reductions and holding
8 that up against the average projection, not
9 the actual?

10 MS. BLUESTEIN: Well, actually as
11 far as what we look at we'll look at your
12 projection, but we ask for your actual
13 number. We ask you for the actual amount of
14 petroleum reduced. And the amount used in
15 your light duty fleet, covered fleet.

16 MR. KRYSTINGER: Is it held up
17 against the projection or the actual?

18 MS. BLUESTEIN: The actual -- for
19 your annual report. So you do need to know
20 how much petroleum you used at the need of
21 the year. I guess, I'm just looking through
22 these questions. Give me a second.

23 You asked do these waiver
24 provisions effect the exemption process,
25 Rick. I did go over in my slides that under,

1 if you do apply for a waiver, that we're not
2 going to grant exemptions on top of the
3 waiver because in that particular program
4 because you've got a choice of using any
5 technology, and we're not limiting it, to
6 meet your requirements.

7 Under the 10 CFR Part 490, you
8 know that there's the provision that it says
9 that if you can't find alternative fuels or
10 you don't have alternative fuel vehicles
11 available to you that meet the business needs
12 of your fleet, then you can apply for
13 exemption.

14 Well, that's totally a moot point
15 here because you know you can do a lot of
16 things. You're not limited to alternative
17 fuels and vehicles. So that really isn't
18 part of the --

19 MR. TEMPCHIN: I think the point
20 is not necessarily that point but will
21 exemptions be harder to get because this is
22 available?

23 MS. BLUESTEIN: I really can't
24 comment on that at this time because I have
25 thought about that issue. If somebody

1 continually applies for exemptions and they
2 could be doing something like this, I think
3 we will want them to entertain that over
4 time.

5 I mean, as the program gets into
6 full swing and if it looks like it's
7 successful and people are using it and it
8 opens up a lot of possibilities and it's
9 working well and we have the resources to add
10 more fleets, we'll certainly be at least
11 encouraging those fleets that are applying
12 for exemptions.

13 Exemptions are a very small part
14 of the program. So it's not something that
15 has overly concerned me in the past. But
16 that's certainly something that we might look
17 into in the future, but not immediately.

18 I guess, can you explain question
19 5 for me?

20 MR. TEMPCHIN: I think the point
21 is -- I think this is really question for the
22 existing program as well, the question of
23 dual fuel vehicles and how much of the
24 alternative fuel you have to use to get a
25 credit. And then the second part of it is

1 how do you track, somebody help me here. May
2 be hard to track that use for this program?
3 You're going back and forth, two tanks. You
4 have gasoline and you have natural gas, a
5 dual fuel vehicle.

6 MS. BLUESTEIN: On the second part
7 of the question, you know, it will take some
8 work on the part of the fleet, if they're
9 doing, for instance, public refueling, rather
10 than refueling all the time at a centrally-
11 located place.

12 They're going to have to figure
13 out a way to keep receipts or something.
14 There's a record retention requirement. So -
15 - or keep a log or what have you, where they
16 filled up and what they used. I'm not sure
17 how each fleet would handle that, you know.
18 But that would be up to the individual fleet
19 to handle.

20 MR. LEONARD: In other words, you
21 might not care about how any one dual fuel
22 vehicle used gasoline versus natural gas, but
23 the total fleet volumes is what you'd be
24 looking for?

25 MS. BLUESTEIN: The total usage of

1 the alternative fuel.

2 MR. TEMPCHIN: And in the existing
3 program, how is that -- how much alternative
4 fuel do you have to use in a dual fuel
5 vehicle to be able to get a credit?

6 MS. BLUESTEIN: States don't have
7 to use any, but alternative fuel providers
8 are supposed to use fuel whenever it's
9 available -- wherever it's available and
10 they're supposed to keep records of that for
11 three years.

12 MR. TEMPCHIN: But if it's not
13 available, you still get the credit?

14 MS. BLUESTEIN: Well, normally,
15 when they buy one, buy an alternative fuel
16 vehicle, like for instance, a flexible fuel
17 vehicle and they're a fuel provider, we try
18 to ensure that there's fueling somewhere
19 nearby, otherwise they need to look at a
20 different strategy because the idea is that
21 fuel providers have to use the fuel and are
22 we out there watching how much they pump
23 every day? I mean obviously not.

24 MR. TEMPCHIN: So there's not a
25 standard for well half or 10 percent or --

1 MS. BLUESTEIN: I mean if I
2 audited a fleet or something, I probably
3 would want to see that they were filling up
4 most of the time with alternative fuel. I
5 mean I would look at their records and say
6 okay, this looks okay.

7 I can't tell you right now if it's
8 60 percent or 80 percent or whatever. It
9 would probably just completely depend on the
10 availability of the fuels or the fleet and
11 when they got the credit and what the
12 circumstances are.

13 MR. TEMPCHIN: Thanks.

14 MS. BLUESTEIN: I can tell you
15 that for the most part because of that, the
16 only real fuel provider fleets that had the
17 85 are ones that had actual pumps on site
18 that have refuel

19 --

20 MR. TEMPCHIN: This was a question
21 about dual fuel, not flex fuel.

22 MS. BLUESTEIN: You mean like CNG
23 and LNG vehicles?

24 MR. TEMPCHIN: CNG and gasoline.

25 MS. BLUESTEIN: You know my

1 feeling on that is that if fleets are
2 investing an extra \$3,000 to \$15,000,
3 whatever it is, for a conversion, at this
4 point it's conversion. It might cost them up
5 to \$10,000 or \$15,000. It's pretty
6 expensive.

7 They're going to be trying to use
8 the alternative fuel as much as possible to
9 pay off for that investment. They're
10 definitely committed to that whereas flexible
11 fuel vehicle, there's no incremental cost, so
12 you know, there's not as much of an incentive
13 to use the alternative fuel.

14 But my major assumption has been
15 if you're going to invest that much, you're
16 going to be using that fuel whenever it's
17 available, especially for a utility who has
18 an advantage in using the natural gas or
19 propane.

20 And there is no, right now, there
21 is no light duty propane bi-fuel vehicle
22 available or I think the CNGs are going away
23 after this year. There's going to be just
24 one dedicated CNG vehicle, so it's not a huge
25 point on the gaseous fuel at this point

1 anyway.

2 Okay, well, let's move on. I
3 think the next person we have is Genevieve
4 Cullen from EDTA.

5 MS. CULLEN: Good morning. I'm
6 Genevieve Cullen. I'm the Vice President of
7 EDTA. EDTA is an industry association that
8 promotes the adoption of electric drive
9 transportation technologies which include
10 battery, electric, hybrid and fuel cell
11 electric vehicles. Our membership includes
12 representatives of the utility industry,
13 vehicle manufacturers, universities, battery
14 and component manufacturers, state and local
15 governments and others interested in
16 furthering the use of electric drive.

17 The creation of an alternative
18 compliance waiver in the state and
19 alternative fuel provider fleet program
20 addresses some long-standing deficits in that
21 program. In particular, by allowing covered
22 fleets the ability to use hybrid vehicles
23 their ability to meet their petroleum
24 reduction goals is enhanced and the
25 development of these clean and efficient

1 technologies is accelerated.

2 EDTA believes that overall, the
3 proposed rule effectuates the intent of the
4 provision by diversifying compliance options,
5 promoting new advance vehicle technologies
6 and accelerating achievement of petroleum
7 displacement requirements. However, there
8 are areas of the proposed rule in which
9 clarification would be useful to cover
10 persons and to achieving actual petroleum
11 reductions.

12 The following points outline our
13 priorities for the program and note where the
14 proposed rule might be modified to more
15 effectively achieve them. First, the
16 proposed rule should promote the greatest
17 flexibility for alternative compliance while
18 ensuring the maximum petroleum use reductions
19 and clean technology enhancement. We agree
20 with the proposed 490.802 that the motor fuel
21 consumption reduction should be based on the
22 fleet's cumulative inventory of alternative
23 fuel vehicles.

24 Second, while preserving the case-
25 by-case approach endorsed by the proposed

1 rule, the proposed rule should provide
2 additional certainty to covered fleets
3 participating in the program in the following
4 areas. Under the proposed 490.803,
5 application for waiver requires submission of
6 a detailed strategy to reduce petroleum
7 consumption and the amount of petroleum
8 reduction anticipated by each action or
9 strategy. These must come from variable and
10 credible sources.

11 We recommend that DOE provide
12 guidance as available on fuel displacements
13 of technologies likely to be adopted by
14 covered fleets such as low-speed and electric
15 vehicles. DOE does not need to define the
16 fuel savings associated with every
17 permissible action, however, by establishing
18 and updating guidance from likely waiver
19 activities, DOE could materially lower one
20 hurdle to participation in the program.

21 Under proposed 490.803(d) (2)
22 petroleum reduction strategies that are not
23 transportation related are not permitted. In
24 support of maximum petroleum reduction and
25 promotion of alternative technology

1 approaches, we would urge the Department to
2 clarify that transportation-related
3 activities include the use of certain on-road
4 vehicles such as hybrid or battery electric
5 forklifts to help recognize the significant
6 petroleum savings and crossover technology
7 developed offered by these vehicles.

8 EDTA supports 490.805(a)(1)
9 rollover credits as means to support
10 preservation of the program. However,
11 further clarity is needed in the standard for
12 determining eligibility for the credit
13 rollover. The standard that the covered
14 fleet must demonstrate that it did everything
15 under its control to meet its petroleum
16 reduction requirement is very broad and
17 creates a potential for a standard that in
18 practice is unattainable.

19 Additional guidance on how
20 applicants' good faith would be measured in
21 the case of a fuel savings shortfall would be
22 an important improvement to the proposed
23 rule.

24 Just to sum by recognizing a wider
25 variety of petroleum consumption reduction

1 technologies including diverse electric drive
2 products, the alternative compliance way of
3 flexibilities is a significant new tool for
4 covered fleets and EDTA looks forward to
5 working with the Department of Energy to
6 finalize the rule that provides both
7 flexibility and certainty for covered fleets
8 putting together new strategies and one that
9 ensures maximum petroleum reductions.

10 Thank you.

11 MS. BLUESTEIN: Okay, thank you.
12 You know, one thing that I wanted to comment
13 was on (a) under 490.803 application for
14 waiver requires submission of detailed
15 strategy to reduce petroleum consumption
16 where you're talking about recommending DOE
17 provide guidances available on fuel displace
18 on technologies likely to be adopted by
19 covered fleets.

20 You know, we do to some degree, as
21 the Department overall have a lot of that
22 data on our websites already and maybe what
23 we would just do is provide some linkage from
24 the EPACT website to maybe some sources like
25 the testing and evaluation program that we

1 have here at DOE that has looked at any of
2 these and has looked at hybrid vehicles and
3 maybe to the fuel economy guide websites and
4 some other things that fleets could use.

5 But I think that's something that
6 is going to evolve. You know, I think that's
7 an area that will evolve over time as you
8 know as we get applications for this and see
9 what fleets are doing and looking for, we'll
10 get ideas from them. And we'll try to
11 implement those, if they're good ones, on our
12 website and use them as examples and maybe
13 even use some of the sources that they got
14 information from.

15 And we'll do the best we can in
16 guidance to steer people in the direction of
17 some of those places, but I just see that
18 it's going to be an evolution over time and
19 we're not going to be able to come out with a
20 final rulemaking and a guidance and all the
21 standardized types of things that you want at
22 the same time because the people and the
23 resources have not increased in the program
24 to justify doing that all at once. But I
25 think over time we can do that.

1 And I guess on the transportation
2 related, I think we covered that to some
3 degree and I am willing to look into to
4 defining that more broadly as in looking at
5 the entire fleet as a whole and that perhaps
6 use of these particular types of offered
7 vehicles like forklifts could expand the
8 infrastructure for alternative fuels and that
9 would be potentially something that's good
10 for the transportation fleet and maybe using
11 that to help define what would be allowable
12 in terms of offroad.

13 Okay, let's move on then to the
14 next person. Somehow in the mix of paper, I
15 lost my agenda. Who's up next?

16 MS. SHARP: I am.

17 MS. BLUESTEIN: Okay, Josie.

18 MS. SHARP: Good morning. On
19 behalf of the National Association of Fleet
20 Administrators, I want to thank you for the
21 opportunity to participate in today's
22 workshop. I am Josie Sharp and I'm the
23 Director of the Bureau of Vehicle Management
24 for the Commonwealth of Pennsylvania. My
25 fleet is a State fleet and a diversified

1 fleet. We have about 16,000 vehicles and
2 most of them compact, midsize, and full-size
3 sedans, SUVs, minivans, cargo vans, 12 and
4 15-passenger vans. We have some medium and
5 heavy-duty trucks. We manage the fleet that
6 supplies vehicles to about 50 state agencies.

7 This does not include the Pennsylvania
8 Department of Transportation or the
9 Pennsylvania Turnpike.

10 NAFA is an association of
11 professional automotive fleet managers. We
12 have about 2,300 members who manage fleets
13 for a wide range of manufacturing, sales and
14 service organizations, government entities,
15 and public service entities such as law
16 enforcement, educational institutions, and
17 utilities, along with financial institutions,
18 insurance companies, nonprofit organizations,
19 and the like.

20 The proposed Alternative
21 Compliance Waiver Option is of interest to
22 those NAFA Members who manage fleets for
23 state government entities and utility
24 companies.

25 I would like to thank DOE staff

1 for your efforts and cooperation over the
2 years in helping covered fleets work through
3 their obligations. Your help and support
4 have been greatly appreciated.

5 EPACT has been a challenge for
6 covered fleets. The lack of fueling
7 infrastructure and limited availability of
8 AFVs have made it difficult for fleets not
9 only to meet the compliance requirements but
10 to contribute to reducing the use of
11 petroleum in transportation.

12 For example, the Commonwealth of
13 Pennsylvania has 585 flexible fueled
14 vehicles, but we only have two ethanol
15 stations in the entire state. In this case,
16 we are in compliance with EPACT, but are not
17 reducing our petroleum use with these
18 vehicles.

19 The Alternative Compliance Option
20 offers some real possibilities for covered
21 fleets to achieve real, verifiable reductions
22 in petroleum use. Although it is too early
23 to tell how many covered fleets will take
24 advantage of this option, it is certainly a
25 step in the right direction.

1 At a time when gasoline and diesel
2 prices are high and the United States
3 continues to depend on foreign oil,
4 flexibility and options are clearly
5 preferable to limitations and restrictions.

6 The proposal provides flexibility
7 and endless possibilities. Covered fleets
8 will have the option to consider hybrids,
9 increase the use of biofuels, acquire medium
10 and heavy-duty AFVs, adopt vehicle
11 replacement policies that encourage the use
12 of more fuel efficient vehicles, and other
13 meaningful strategies.

14 NAFA has two recommendations for
15 your consideration. The first one, which was
16 already mentioned more than once, is to
17 extend the deadline for submitting a waiver
18 request from March 31 to August 1 prior to
19 the year for which the waiver is requested.
20 March 31 is too early, since the vehicle
21 manufacturers typically do not reveal product
22 offerings and pricing for the next model year
23 until mid-summer. An August 1st deadline
24 will permit a fleet to make a reasonable
25 decision on whether to submit a waiver

1 request.

2 The second recommendation concerns
3 the baseline used to calculate the petroleum
4 reduction. The proposal requires the covered
5 fleet to include its "inventory of
6 alternative fuel vehicles". We recommend
7 that this be changed to read:

8 "Inventory of alternative fuel
9 vehicles acquired for EPACT compliance and
10 included in the prior Annual AFV Acquisition
11 Report for State and Alternative Fuel
12 Provider Fleets".

13 This modification clarifies that
14 the "inventory" is limited to EPACT-acquired
15 AFVs and does not include other AFVs that may
16 be in the fleet for other purposes. For
17 example, many covered fleets have flexible
18 fuel E85 vehicles in use -- not for EPACT
19 compliance but because these vehicles are
20 commonly available. If a fleet has to
21 include these non-EPAct AFVs, it may make use
22 of the Alternative Compliance Waiver option
23 problematic.

24 This recommendation is also
25 consistent with the statutory requirements in

1 42 U.S.C. 13264. For fuel providers, the
2 statutory requirement is those vehicles
3 subject to the "fuel use requirements of
4 section 501". Therefore, an AFV that is not
5 covered by the fuel use requirement would not
6 appear to be part of the inventory when
7 calculating the petroleum reduction.

8 In the case of a dtate entity, the
9 statutory requirement is "the cumulative
10 alternative fuel vehicles of the State entity
11 given credit under section 508". Therefore,
12 vehicles not given credit under section 508
13 would not appear to be part of the
14 "inventory".

15 These recommendations will enhance
16 the waiver option and encourage greater
17 participation by covered fleets. NAFA will
18 be submitting written comments prior to the
19 August 7 deadline.

20 Thank you again for your
21 consideration and I will be happy to answer
22 any of your questions.

23 MS. BLUESTEIN: I do have a couple
24 of questions. First of all, on the August
25 1st deadline, I'm not sure that gives us a

1 reasonable amount of time to work out with
2 the fleet if we have to go back and forth
3 before the start of the model year. You
4 know, as to whether we are going to allow the
5 Waiver or whatever.

6 So there's just a month there that
7 seems to me to be sort of short. Would it be
8 really difficult for a fleet to give us sort
9 of a proposed waiver outline or proposed
10 Waiver prior to that and then have us say
11 this looks okay?

12 MS. SHARP: Yes, I think it would
13 be very difficult.

14 MS. BLUESTEIN: And then -- okay,
15 it would be difficult.

16 MS. SHARP: Yes, because we are
17 just now starting with our RFPs for the 2007
18 model year. And the OEMs work with the
19 Federal Government first, get their program
20 in place, and then state governments are the
21 next year.

22 MS. BLUESTEIN: I see.

23 MS. SHARP: So our program will
24 not be in place until September 1st.

25 MS. BLUESTEIN: Okay.

1 MS. SHARP: And if you said, you
2 know, this involves 80 percent of state
3 governments, that's a big concern.

4 MS. BLUESTEIN: How about going on
5 a fiscal or a calendar year basis for these
6 requests? Would that work out better for
7 you? Would you suggest some other time
8 frame? I mean, I think we need 45 working
9 days.

10 MS. SHARP: Prior to September
11 1st?

12 MS. BLUESTEIN: Yes, probably.
13 Probably.

14 MS. SHARP: So July 15th instead
15 of August 1st?

16 MS. BLUESTEIN: Right. Or some
17 time in July.

18 MS. SHARP: We certainly have a
19 better idea. Every year, for instance, Ford
20 has their presentation the last week of July.

21

22 MS. BLUESTEIN: Well, I guess I
23 would be looking for suggestions as to what,
24 how you would want to define a year given how
25 your program works, allowing us 45 days to do

1 a review. And maybe even a little extra time
2 included in there in case we have to go back
3 and forth with the fleet to ask questions and
4 get answer.

5 Maybe you can work with Pat or the
6 NAFA group to come up with a proposal on that
7 because, you know, that's certainly something
8 we can look at.

9 MS. SHARP: And the difference
10 between March 31st and July 15th or August
11 1st is significant for us.

12 MS. BLUESTEIN: Okay, we would
13 certainly look into doing that, to changing
14 it since we did get a couple of comments here
15 and it sounds like we might get more interest
16 in the program if we did that. So we'll take
17 a look at doing that and how that would work
18 given the fact that right now everybody is
19 complying on a model year basis. We'll have
20 some thought about.

21 MS. SHARP: We would still comply
22 on a model year basis. But the date --

23 MS. BLUESTEIN: The actual date
24 for submitting, for the -- now it would be
25 for the, okay. Well, I guess if you could

1 write down how you would expect it to go that
2 would be really helpful to me.

3 MS. SHARP: Okay.

4 MS. BLUESTEIN: And when you're
5 talking about sort of putting a broader
6 definition, or I guess a definition of the
7 AFEs in inventory, I mean you understand
8 that, you know, you're just talking about the
9 vehicles coming into the program the first
10 year. Right? You're talking about --
11 because after that you're just going based on
12 your AFE requirement.

13 MS. SHARP: Well, the difference
14 is the total inventory.

15 MS. BLUESTEIN: Right, but you
16 would just be -- when you give us an annual
17 report, you know, you are giving us when
18 you're saying how many AFEs that you're
19 required to purchase in a year, you know you
20 go through a calculation every year, and that
21 is all we get from you. So you would just
22 want to go back and look at those vehicles
23 and then have the language reflect those
24 vehicles in your fleet, because you might
25 have vehicles in areas outside of EPACT that

1 you have that are the 85 vehicles.

2 MS. SHARP: Correct.

3 MS. BLUESTEIN: Okay. All right.

4 If there are -- if we can move on the next
5 person that would be great. I guess, would
6 everybody like to take a short break? Would
7 that be helpful? Why don't we go ahead and
8 do that for 15 minutes.

9 (Off the record.)

10 MR. LEONARD: Good morning. Thank
11 you. My name is Jon Leonard. I am with
12 TIAX. We're a consulting company. We were
13 asked by California Electric Transportation
14 Coalition to look at the entire EPACT waiver
15 issue, including the NOPR and make some
16 comments. Much of our comments are focused
17 on clarification of the NOPR and a lot of
18 that has come out today. So a little of this
19 is going to be redundant and I'll move pretty
20 quick.

21 Overarching Cal ETC comments are
22 that we support the overall goals and
23 objectives of the waiver program and as I
24 believe Genevieve made that point about, we
25 support a program that helps advance

1 commercialization in employment of cutting-
2 edge vehicle technologies that can do three
3 times. One, maximize fleet petroleum
4 displacement, particularly through high-
5 efficiency electric-drive systems in
6 vehicles; two, provide "collateral" benefits
7 such as reduced criteria pollutants and
8 greenhouse gases. There are many emerging
9 and advance technologies that can not only
10 displace petroleum, but also provide these
11 "collateral" benefits, and obviously help
12 move America's transportation system towards
13 energy independence and long-term
14 sustainability.

15 We think that DOE staff have done
16 a very commendable job in crafting the NOPR,
17 particularly the flexibility and the more
18 I've heard today, the more I realize how
19 flexible it is.

20 So as I said Cal ETC's comments
21 today specifically focus on changes or
22 clarifications for the either the guidance
23 document or the actual rule, whatever comes
24 next. At the time I did this slide, I
25 thought the guidance document was next.

1 We believe that we'd like to
2 recommend providing standardization for
3 inputs and outputs of waiver applications;
4 help ensure greater user-friendliness of the
5 application process, which I think Linda's
6 slides go a long way towards that; and help
7 reduce the administrative burden of reviewing
8 and verifying applications when DOE actually
9 starts going through this process.

10 So some of the key wording that
11 folks have talked about, Section
12 490.803(c)(5), you can see I've highlighted
13 some actual words there and we recommend the
14 following be clarified or confirmed. As I
15 said, some of this has been clarified today
16 through Linda's examples. "Anticipated
17 amount" means -- actually establishes the
18 fleets baseline petroleum usage for light-
19 duty vehicles. I think that is more clear
20 today, but you just should make that very
21 clear in any rule.

22 "To be used" apparently includes a
23 prediction of fuel consumption for AFVs that
24 would have been purchased during the upcoming
25 waiver years. So in setting your baseline,

1 you have to predict what you would have
2 bought and then what fuel those would have
3 used.

4 This is actually fairly simple,
5 but I think it wasn't very clear in the NOPR.

6 It's more clear now that I've seen Linda's
7 examples.

8 The referenced conversion table is
9 not applicable for estimating or calculating
10 actual petroleum reductions during the wavier
11 year. I'll talk about that in a minute on
12 the next slide.

13 "Per vehicle average fuel use", is
14 this a breakdown by specific types of
15 vehicles and fuels or just the light duty
16 fleet average? And I think the gentleman,
17 Bob, had this question about dual fuel
18 vehicles and it seems to be the answer is
19 you're just trying to derive a baseline per
20 vehicle fuel use for all your light duty
21 vehicles and not well, I've got so many
22 electric vehicles they use this. I've got so
23 many NGVs.

24 Regarding the table, I think the
25 only problem with the table is, in

1 particular, the example which is highlighted
2 there in the red. It says if you used 115
3 gallons of B20, the equation would be you
4 displace actually more gallons of gasoline
5 gallon equivalents. The problem with this is
6 in the table it's not clear that you're
7 talking only about the BTU content of these
8 fuels. And actually, of course, a gallon of
9 B20 only displaces about one-fifth of a
10 petroleum gallon. So it's very clear in
11 Linda's slides and examples. It's not clear
12 if you just look at this table. I think
13 that's already fixed.

14 Also wording (d)(1). Verifiable.
15 We think that is a very important point. We
16 strongly concur with verifiable and provide
17 recommendations to help standardize
18 applications which will assist fleets in
19 preparing "apples-to-apples" applications and
20 it will significant reduce DOE's
21 administrative burden to review and verify
22 those applications.

23 And then also in the wording in
24 (ii) there, motor vehicles, it seems to
25 preclude off-road vehicles. We talked about

1 this a lot. I think we now understand this.

2 Off-road vehicles are a good opportunity to
3 displace petroleum and the forklift examples
4 is a very good one. I just point out here at
5 the bottom that reducing a gasoline or diesel
6 forklift with a comparable electric forklift
7 displaces about 6600 lifetime gallons and
8 that's a very conservative estimate based on
9 how utility fleets actually use electric
10 forklifts. These are not assumed large hours
11 per year. It's a pretty conservative
12 estimate. So a typical AFP displaces about
13 2650 lifetime gallons. So there's roughly a
14 3 to 1 benefit here of getting your
15 displacement in the off-road sector, as long
16 as it meets all the requirements that Linda
17 has discussed.

18 Also wording here, our comments.
19 We suggest clarifying in examples, even if
20 considered obvious, that any AFV already in
21 the fleet's inventory is contributing to that
22 net reduction. I think that's very clear,
23 again in Linda's slides, but in the NOPR
24 example, it doesn't quite make clear that
25 you're -- if your AFV that you already have

1 is using alternative fuels, that's part of
2 your reduction burden.

3 The proposed waiver program will
4 require fleets to track and predict fuel
5 usage across all vehicle categories with
6 light duty vehicles broken out specifically.
7 We've talked about this a little bit.

8 Many fleets do not track fuel
9 usage in this way. You'd be very surprised,
10 but it's just a truth that they don't know
11 how much fuel. They often fuel the same
12 medium duty vehicles on gasoline from the
13 same tank as light duty vehicles. We
14 recommending providing fleets with
15 standardized formulas or default values or
16 some way to help them. And I think Linda has
17 indicated some flexibility here in looking at
18 this..

19 As far as the second part of
20 (d)(1)(iii), we want to make the following
21 comments. The underlined wording there about
22 AFV you would have purchased is talking about
23 a hypothetical AFV purchase which by
24 definition is not verifiable. It may make a
25 difference. It may not, but if a fleet guy

1 says yeah, well, I would have bought EVs or
2 NGVs or whatever, that's what my avoided
3 purchase was and it uses so much fuel that's
4 hypothetical. So we suggest that in this
5 case flexibility is not such a good thing.
6 There could be gaming of the system. Again,
7 I'm not sure how much it would matter, but I
8 think it would.

9 So we recommend standardization to
10 a typical AFV choice as the avoided thing
11 that you would have bought to guide fleets
12 and assist DOE in evaluating waiver
13 applications both consistently and fairly, so
14 the specific recommendation is direct fleets
15 to categorize each foregone AFV purchase as
16 one of two things, either they would have
17 bought an E85 FFV light duty car or they
18 would have bought an E-85 pickup truck. And
19 then they could report fleet-specific mixes
20 as far as what they would have actually
21 bought. This makes it more standardized and
22 it will be easier for DOE to evaluate and
23 rule on waiver applications.

24 Regarding the key thing about net
25 reduction, we appreciate that there is total

1 flexibility and as I said, the more I saw
2 Linda's slides, the more evident it is about
3 flexibility. But some type of common
4 methodology may be needed to avoid confusion
5 and compliance inequity. Standardization of
6 inputs and outputs can be very useful to do
7 three things: normalize all applications to
8 common terms, while still providing
9 flexibility in compliance approaches; assist
10 fleets in choice of waiver versus
11 conventional path. If there's a standardized
12 template, a fleet will better be able to say
13 yes, I think it does make sense for me to go
14 for a waiver application whereas another
15 fleet would say no, I think I should stay
16 with buying E85 FFVs.

17 It will also, as I said, reduce
18 DOE's administrative burden to review and
19 verify applications. And finally, it will
20 avoid challenges of inequity and unfairness
21 if DOE should be challenged about one fleet
22 that didn't get approved while another did.

23 So for the guidance document or
24 the final rule, we suggest that DOE offer
25 standardized template for waiver requests.

1 Perhaps would adapt the existing reporting
2 form, DOE/FCVT/101 as the template and add
3 new reporting fields and calculations. It
4 could be a downloadable Excel file with
5 specific examples, particularly the ones that
6 Linda provided today. It could include these
7 two base AFV choices as the baseline
8 "avoided" AFV purchase. It could provide and
9 require standardized fuel economy factors for
10 LDVs.

11 The NOPR doesn't talk about that,
12 but Linda addressed it today. It sounds like
13 she's in basic agreement that DOE will
14 provide some guidance in this regard.

15 Provide examples of potentially
16 viable and quantifiable waiver options.
17 Again, I think DOE is already doing that in
18 the latest version of the slides. It will
19 assist applicants with critical calculations
20 such as how to estimate your baseline
21 petroleum use, perform other basic math to
22 help define reduction targets, determine
23 petroleum reductions in the fleet from
24 specific waiver options and calculate total
25 equivalent petroleum reductions in the

1 vehicle fleet.

2 Again, the NOPR, it was hard to
3 get to some of these things, but after seeing
4 Linda's slides, it's clear that DOE intends
5 to do exactly what we recommended here.

6 Standardization now will help lay
7 the ground work for incorporating emerging
8 electric-propulsion technologies, which are
9 already becoming available such as typical
10 utility boom trucks. There are platforms
11 becoming available for HEVs and plug-in HEVs
12 and natural HEVs even. And also things like
13 the Sprinter Plug-in Hybrid Van Project.
14 These kinds of things are going to become
15 options for waivers in the future and they're
16 even beginning now on a demonstration level
17 to become available. So standardization now
18 can help work those things in sort of a
19 cookie cutter way.

20 So in summary, Cal ETC supports a
21 strong, equitable EPCa waiver program and
22 commends staff for crafting a flexible NOPR.

23 It's very evident the staff thought about
24 this a lot and I think they did a very good
25 job.

1 We believe that the guidance
2 document or rule itself can maintain
3 flexibility, while also incorporating very
4 beneficial types of standardization. The
5 same things I just mentioned, a template
6 based on the existing form perhaps; common
7 methodologies; use of assigned light duty
8 vehicle fuel economy factors; example viable
9 "waiver" options. Linda's slides do that.

10 And just the final comment, we
11 will provide specific examples and written
12 comment to the NOPR by the deadline.

13 Also, just to let you know, on
14 behalf of Cal ETC, we did prepare a waiver
15 calculator and we've now adapted that and it
16 can do, it can help a fleet meet the rule
17 while also getting these collateral benefits.

18 In other words, those vehicles that not only
19 displace the most petroleum, but also are
20 very low in greenhouse gas emissions and
21 criteria pollutants are prioritized in our
22 calculator, so you could help a fleet go
23 fully green, not just in terms of petroleum
24 displacement. And just a screen shot of what
25 our calculator looks like. So with that, I

1 would be happy to answer any questions that
2 you might have, Linda.

3 MS. BLUESTEIN: Okay, thank you.
4 I guess just a couple of comments. I guess
5 you know where you're talking on page 7 about
6 the net reduction of petroleum consumption,
7 I'm not really quite sure -- I'm just trying
8 to see this. I guess I'm trying to
9 understand what your point is on this page
10 because I think when I went through the slide
11 I saw this sort of addressed how this
12 calculation works and how to do this. It's
13 page 7.

14 You were talking about deliver a
15 net reduction in petroleum consumption equal
16 to the amount of alternative fuel the fleet's
17 inventory of alternative fuel vehicles,
18 including the vehicles acquired during the
19 waiver years. I guess after looking at my
20 slides, did you feel like we addressed this?

21 MR. LEONARD: Yes.

22 MS. BLUESTEIN: I'm trying to
23 understand why we'd need to -- I don't know
24 why this point is necessary.

25 MR. LEONARD: It may not be given

1 what I saw in your slides. We'll think about
2 that some more and write our comments around
3 that.

4 MS. BLUESTEIN: And I think just
5 based on -- like I said after Genevieve's
6 comments that the idea of trying to put
7 information, more information together for
8 the fleets is going to evolve. It's not
9 going to be on a website all at once, but
10 it's something that we'll try to work on bit
11 by bit as we get pieces of information and
12 ideas. And of course, if you have ideas
13 about different sources of documents and
14 things, it would be helpful to fleets or ways
15 of making calculations that are helpful to
16 fleets, we certainly would entertain all of
17 this in the written comments as well, if
18 there are any ideas after the meeting.

19 I thank you very much for this and
20 I will look at your tool that you've
21 developed and maybe we can talk about that.

22 MR. LEONARD: Sure.

23 MS. BLUESTEIN: After I've had a
24 chance to look at it.

25 MR. LEONARD: Thank you.

1 MS. BLUESTEIN: Thank you.

2 MR. CALAMITA: Just to follow up
3 on the offroad vehicle issue and some
4 discussion that was had during the break. In
5 commenting on that and the considerations
6 that we're going to take and to what extent
7 to include those vehicles in the plans, we're
8 going to be guided by the goals of EPACT 92
9 which were not only for petroleum reduction,
10 but also to try to spur development of
11 infrastructure to support AFV motor vehicles.

12 So when commenting on what extent
13 we should be considering offroad vehicles,
14 that's one thing that would be helpful for
15 you to keep in mind and maybe provide a more
16 stronger comment. And then would provide us
17 a stronger rationale to present in the
18 preamble as to why we're considering vehicles
19 to the extent we are.

20 MS. BLUESTEIN: Thank you. Okay,
21 I guess now we'll turn to Bill West with
22 Southern California Edison.

23 MR. WEST: Thank you. My name is
24 Bill West. I'm from Southern California
25 Edison. I'm manager of our Electric

1 Transportation Compliance Group. I
2 appreciate the opportunity to be here to
3 comment on the NOPR.

4 Since 1996, Southern California
5 Edison has been a national leader in support
6 of and compliance with the 1992 Energy Policy
7 Act's alternative fuel vehicle fleet
8 requirements program. We were one of the
9 first utilities in the country to declare our
10 compliance strategy which was EVs and have
11 consistently led the nation in deployment and
12 operation and demonstration of advanced
13 alternative fuel technology.

14 I'm going to skip ahead a little
15 bit in order to save some time and focus on
16 our comments.

17 SCE supports the overall goals and
18 objectives of the proposed regulations to
19 allow a state or covered fleet to submit a
20 waiver application to DOE in lieu of
21 complying with section 501 or 507(o) of the
22 EPACT 92. SCE believes that the intent of
23 the waiver provisions now contained in
24 section 514(a) of EPACT 2005 was to provide
25 to states and covered fleets greater

1 flexibility to meet with EPACT requirements
2 while at the time achieving the equal to or
3 greater than the petroleum reductions that
4 would result from 100 percent compliance with
5 the alternative fuel vehicles. In this way,
6 EPACT programs will help to address this
7 nation's growing energy challenges.

8 Of particular importance, this
9 alternative compliance program provides a
10 mechanism to incorporate the introduction of
11 hybrid electric vehicles, including plug-in
12 HEVs, into the EPACT 92 programs. In this
13 way, the waiver program can continue the
14 valuable technology push that has always been
15 at the heart of alternative fuel vehicles
16 programs.

17 SCE appreciates the efforts that
18 DOE and the staff of the Office of the
19 FreedomCar and Vehicle Technologies have made
20 to develop a proposed rule in a timely manner
21 and for their willingness to work with
22 fleets. Rulemaking, we believe, is a
23 particularly appropriate means to provide a
24 blueprint to regulated entities that will
25 enable them to understand and take advantage

1 of the alternative compliance waiver option.

2 SCE supports DOE's language in the
3 proposed rule in many areas. Some of these
4 have been mentioned, but let me just mention
5 two examples. We support DOE's
6 interpretation of the term "cumulative" in
7 section 490.802(a) and section 490.803(d) of
8 the proposed regulations. SCE believes that
9 the final waiver rule must achieve the same
10 or greater petroleum reductions as the
11 existing alternative fuel vehicles, AFV
12 program does. It is our opinion that the
13 language in the proposed rule correctly
14 interprets the intent of section 703 and
15 should result in equal to or greater
16 petroleum reductions than are occurring under
17 the existing fuel providers and state fleet
18 acquisitions programs.

19 We also support DOE's proposal for
20 rollover of excess petroleum reduction to
21 future years contained in section 490.806.
22 SCE believes that this provision in the
23 proposed rule adds greater flexibility to the
24 program and will result in greater petroleum
25 reductions over time.

1 However, Edison believes that the
2 proposed rule could be improved with the
3 following changes. Let me go through these
4 recommendations.

5 Use of AFV credits in the
6 alternative compliance program we think is
7 important. We support the proposal in
8 section 490.805(a) to allow the use of some
9 alternative fuel vehicle credits to meet the
10 petroleum reduction requirement. This
11 approach has two benefits: added flexibility
12 and a continued emphasis on the alternative
13 fuel vehicle aspects of the program. We
14 would recommend that DOE state more clearly
15 that the unmet requirements under the waiver
16 program can be met by credits generated under
17 subpart F. To achieve this clarity, we would
18 recommend that DOE delete the following
19 language in section 490.805(a)(1) which the
20 language says "and demonstrate that it did
21 everything under its control to meet its
22 petroleum reduction requirement." We think
23 this language is overly restrictive and
24 impossible to demonstrate. This change would
25 allow purchase of a limited number of credits

1 to meet any possible shortfall under the
2 waiver.

3 In section 490.803(c) DOE is
4 asking for a level of detail in the waiver
5 application from fleets that will be
6 difficult, if not impossible, to provide.
7 Now, we've resolved some of these issues I
8 think in the discussion, but in particular we
9 are concerned that it may be difficult for
10 fleets to provide verifiable data on its
11 overall light-duty vehicle petroleum and
12 diesel use.

13 Not all fleets have sophisticated
14 fleet use tracking systems and what I'm
15 gathering, we're maybe behind a lot of the
16 fleets here, to be honest with you. And
17 often central fuel tanks are used by varying
18 numbers of vehicle and vehicle types. For
19 example, our fleet refuels light-duty,
20 medium-duty and heavy-duty from the same tank
21 and no records are kept at this time.

22 We would also encourage DOE to
23 provide more options under this section, and
24 from what I've heard today, it sounds like
25 DOE is considering that.

1 The final rule would permit fleets
2 to include, my third point, excuse me, the
3 final rule should permit fleets to include
4 nonroad vehicles such as fleet forklifts in
5 their petroleum reduction plans under section
6 490.803(d). There's been a lot said on this,
7 but let me, we have one fix for it. DOE's
8 current proposed language seems to exclude
9 nonroad vehicles. The proposed rule
10 describes the petroleum reduction plan as
11 involving reductions in petroleum use by
12 "motor vehicles" in section 490.803(d)(1)(ii)
13 and requires reductions to be "transportation
14 related" in section 490.803(d)(2).

15 Forklifts and similar nonroad
16 equipment are housed in most utility's
17 transportation services or fleet services
18 department. Since these nonroad vehicles can
19 account for significant petroleum use and
20 emissions as we've seen in the TIAX
21 presentation, we recommend that DOE clarify
22 section 490.803 to allow for nonroad
23 vehicles.

24 Another thing which I don't have
25 in my written comment which I would like to

1 mention is that it's important too from the
2 utility's standpoint since most of us have to
3 go to a state agency or regulatory body to
4 get approval funding for alternative fuel
5 vehicles programs that as many -- the
6 broadest category provides us greater
7 opportunity to fund those when we go to our
8 state regulatory agency. So by excluding
9 forklifts, electrics in particular, which
10 tend to cost more, then it would not be -- we
11 could not argue before a state regulatory
12 agency that that funding is reasonable, given
13 the EPACT waiver program. So that's one
14 consideration.

15 A greater level of standardization
16 -- our fourth point -- could assist with the
17 administrative feasibility of the program and
18 in assuring uniform compliance. While DOE
19 has tried to make the rule flexible by
20 allowing a case-by-case approach, SCE is
21 concerned that this may cause confusion and
22 possibly lead to compliance inequity around
23 the country. We've said a lot about
24 standardization and what I'm hearing from
25 DOE, this sounds like the way you're moving.

1 In closing, besides the petroleum
2 reduction objectives of EPACT, there are
3 broader environmental implications of
4 waivers. SCE believes that the intent of
5 EPACT is not just petroleum reductions. The
6 other considerations include the need to
7 continue to focus on light duty vehicles; the
8 need to advance technology in an early-
9 adopted fleet; the need to reduce all
10 emissions.

11 Waiver requirements should not
12 reduce incentives for fleets to be early-
13 adopters and demonstrators of promising fuel-
14 efficient, light duty vehicle technologies,
15 such as hybrids and plug-in hybrids. Because
16 DOE is using this rulemaking authority,
17 creative solutions should be possible.

18 That concludes my comments and I
19 appreciate the opportunity to be here today.

20 MS. BLUESTEIN: Thank you, Bill.
21 I just wanted to, I guess, go over a couple
22 of things. Certainly, we'll look at the
23 wording on the credit provision to maybe make
24 it a little less restrictive.

25 MR. WEST: It just seemed from us

1 the language could be interpreted like Bob
2 said when you become the Director of DOE not
3 to be inflexible.

4 MS. BLUESTEIN: Okay.

5 MR. WEST: So just raised some
6 concerns.

7 MS. BLUESTEIN: Okay. I have
8 talked with some of the bigger fleets that
9 are in the program and a lot of them are able
10 to give me to the gallon how much fuel use
11 they use and I'm not saying you're the only
12 one that has the problem, but I think we're
13 willing to be flexible in the approach that
14 you use as long as you tell us how you
15 derived your information, but then we would
16 expect you, at the end of the year when you
17 submit your annual report to us, to have
18 numbers that are real.

19 So I realize the first time might
20 be difficult to get those together if you're
21 not tracking the fuel use in that way, so we
22 want to be flexible with the other front end
23 and if you have credits or the ability to
24 purchase credits or something like that, you
25 shouldn't run too far afoul of anything. In

1 my opinion, there's enough flexibility built
2 in to work with that.

3 MR. WEST: I would agree based on
4 your slides.

5 MS. BLUESTEIN: Right. I mean we
6 could do something like, you could even do
7 something like you'll get the mileage that
8 your vehicles accumulated and do some
9 calculations from that, given the fuel
10 economy or what have you. The first time I
11 know for some fleets it might be a challenge
12 to overcome, but we're certainly willing to
13 work with you on those numbers and then to
14 get the annual report at the end, there will
15 have to be some kind of reconciliation, one
16 way or the other, with credit. so I think
17 it's still doable, in my opinion.

18 I guess the other thing is we
19 discussed nonroad and I think Chris had some
20 really good comments which were to go back to
21 the initial statute and discuss -- and the
22 goals of EPACT, etcetera, and look at how
23 your proposal to use these types of vehicles
24 fits in with the initial statute under EPACT
25 and the goals stated therein. That will help

1 us justify, if we want to go that route. I
2 mean it seems like a very promising route to
3 add more alternative fuel forklifts and
4 vehicles like that to fleets and if we could
5 also show that this benefits -- perhaps
6 there's also a benefit to transportation
7 portion of your fleet which I'm sort of
8 sticking to when I think about this, that
9 that helps make the justifications.

10 MR. WEST: Just a caution, I think
11 it may be doable with some of the liquid and
12 natural gas fuels to make that connection.
13 I'm not sure it's all that clear cut for
14 electric. I mean you would have to invest an
15 infrastructure, but whether that's useable by
16 your fleet is real questionable.

17 So I mean I would caution not to
18 make it too restrictive.

19 MS. BLUESTEIN: Well, just think
20 about it and try to relate it back to the
21 goals and the information that is in the
22 initial legislation, EPACT legislation, look
23 at what that says and try to relate what
24 you're doing back to that. Maybe your
25 comments will help in that way.

1 MR. WEST: We'll certainly provide
2 written comments on it.

3 MS. BLUESTEIN: Okay, and I guess
4 the only other comment is again, you know, in
5 terms of standardization, you know, yeah,
6 we'd love to come out and have everything
7 standardized, but at this point I think it's
8 going to be an evolution, month by month,
9 year by year. We might eventually get to the
10 point you'd like to be at with the
11 standardization, but it is going to take some
12 time, in addition to our rulemaking effort to
13 work on that. And it may take us a full
14 year, after that, to get everything on a
15 website or figure out exactly how we want to
16 do that with the forms.

17 In the meantime, once the final
18 rule is out, and guidance is out, you should
19 be able to depend on that initially and then
20 we'll try to make it a little easier for
21 everybody after that.

22 I guess we should move along to
23 our next speaker and next person we have is
24 Bob Schomber who is going to be speaking with
25 George Survant.

1 MR. SCHOMBER: Linda, with your
2 permission, George is on a plane. He got
3 bumped from an early plane yesterday to a
4 later one and then the later one didn't fly.

5 So he did fly out this morning and he's on
6 route, hoping to get here around 1 o'clock at
7 which time most of us will probably be gone.

8 Now in that interest, he did leave
9 me a voice mail and sent me his comments
10 which I can't produce, couldn't produce
11 because my computer doesn't have a printer
12 that I had with me. However, thanks to your
13 office, I got a fax version of them and if
14 you'll permit, I'll make some comments of my
15 own and then I'll read his comments into the
16 record and you can visit with him privately a
17 little later, if he shows up and we're all
18 gone, if that's okay.

19 MS. BLUESTEIN: Okay.

20 MR. SCHOMBER: My name is Bob
21 Schomber. I am a consultant for Florida
22 Power and Light Company in Miami. I'm a
23 retired fleet manager for the company as part
24 of my responsibilities during that time, I
25 oversaw the EPACT reporting for the company

1 and also participated both in the development
2 of the initial act and contributed to
3 comments regarding the development of the
4 current Energy Policy Act also.

5 I'm going to make first some
6 comments on my behalf. I would first like to
7 thank you, Linda, for what I think is a great
8 job at providing us a framework that permits
9 a performance-based compliance, but doesn't
10 tie our hands in the way we do that
11 compliance, so that we can innovate and do
12 things that fit our business plan, but also
13 truly contribute toward petroleum reduction
14 and emissions reduction, both for our
15 companies and for the country.

16 Most of the comments that I would
17 make personally have been covered either in
18 discussion earlier today about the offroad
19 vehicles and so forth. I would like to make
20 one comment about the flexibility. I am very
21 comfortable with the way you've postured the
22 rulemaking with respect to how you develop
23 the gasoline gallon equivalence and that sort
24 of thing. And personally, speaking for
25 myself and I believe my company, we would

1 prefer to stay away from a prescriptive
2 approach that tells us so many gallons like a
3 cafe standard or some other standard, because
4 we have very good data. Our vehicles are all
5 bar coded. The truck pulls up at 2 o'clock
6 in the morning and hits the bar code and we
7 know exactly how much fuel went in there. It
8 only lets diesel go in. It prevents theft
9 and it highlights poor performing vehicles.
10 And the extension of that information into
11 reporting to you will provide us an added to
12 analyze our fleet and furthermore since the
13 data is public, we can compare it to Southern
14 Cal Edison's and say hey, how come they got
15 so much better performance out of their cars
16 than us, or the other way around?

17 So I look at this as an
18 opportunity to improve the management of our
19 fleet in addition to providing you the
20 reporting information and I'm very
21 comfortable with that. And I'm comfortable
22 with it based on our system, but also
23 personally I used to be an auditor at one
24 point and auditors like rules and that sort
25 of thing, but in this situation, I think

1 there's a good case for flexibility and
2 you've given it to us and I'm comfortable
3 with and I think you should continue to do
4 that and work with different approaches as
5 they evolve the way you seem to be heading.

6 Now I'll read George's comments.

7 "My name is George Survant and I currently
8 serve as the Director of Fleet Services for
9 Florida Power and Light Company. Our company
10 is a leader in providing clean and
11 sustainable electricity to 4.4. million
12 customers in Florida and we have wind energy
13 generation, natural gas fired combined cycle
14 generation and nuclear generation spread
15 across 26 states outside of Florida.

16 I personally have been involved
17 with alternative fuel transportation projects
18 since the late 1970s when I was with GTE
19 where we had demonstration projects in
20 cooperation with DOE across 48 states served
21 by that corporation. These projects included
22 over 1000 propane fuel vehicles and 60
23 electric vehicles operating in three
24 strategic locations nationwide.

25 Over this period our firm and

1 others have seen a variety of well
2 intentional initiatives at both the federal
3 and state level designed to reduce America's
4 dependence on imported fuel and eliminate
5 emissions to improve air quality. Over this
6 time, none of these initiatives have proved
7 to be sustainable in the market place.

8 Today the alternatively fueled
9 Products we at FPL can purchase for use in
10 real-world missions are limited to custom
11 production power plants like the CNG/LNG
12 diesel engines and selected models of cars
13 and light trucks that can use E-85. In
14 peninsular Florida, where the CNG
15 infrastructure is limited to commercial users
16 of CNG (as a result of the limited need for
17 home heating), the FPL fleet containing over
18 3800 vehicles including 1200 class 7 and 8
19 trucks which use over 65 percent of the fuel
20 that the FPL purchases would have no
21 commercial fueling options.

22 Currently in Florida there are
23 only a handful of commercial outlets for E-85
24 in the entire state and none of the FPL
25 service territory. It is also worth noting

1 that due to distribution and support issues
2 about one in three FPL refueling transactions
3 are conducted in retail fuel outlets.

4 It is also true that FPL as well
5 as many other companies has learned the need
6 to be self-reliant during times of crisis.
7 FPL has over the last few years had to during
8 disaster recovery operations rely on large
9 contingents of temporary labor from across
10 the country that bring their own trucks and
11 tools with them to support our restoration
12 efforts.

13 In 2004 and 2005 FPL has fielded
14 restoration forces of 16,000 and 18,000
15 workers respectively that required us to
16 delver as much as 190,000 gallons of fuel per
17 day. Limited by the dimensions of the
18 available help, FPL prepares to support only
19 the most commonly sold trucks and cars.

20 Current compliance to EPACT
21 requires that we purchase products that are
22 largely unsupportable for broad utility
23 application in Florida. As a result we are
24 enthusiastically endorsing the Department's
25 focus in the alternative compliance language

1 on what we see as a shift from a "solutions
2 based" strategy to a "results based"
3 strategy.

4 We congratulate the Department and
5 Ms. Bluestein on listening to the groups
6 impacted by these administrative requirements
7 and taking a bold and visionary step in a
8 direction that will reward participant
9 companies for measurable results that
10 achieves the specific goals of cleaning our
11 environment and reducing our use of imported
12 petroleum products. There are specific areas
13 in the proposed language where we would
14 request either additional clarification
15 and/or expanded definitions that we feel are
16 consistent with the overall goals of the
17 alternative compliance language and should
18 serve to encourage companies to expand their
19 efforts.

20 First, clarification regarding
21 where petroleum reduction must occur.
22 Section 490.803(d)(iii)(2) states that the
23 plan must provide for reduction of petroleum
24 motor fuel by the state's or covered person's
25 own vehicles. While we understand the

1 intended exclusion for third parties, we
2 believe that this language should also
3 preclude reduction by leased -- this language
4 would also preclude reduction by leased
5 vehicles.

6 Thus, we suggest that
7 clarification be provided by adding the words
8 found elsewhere in the notice of proposed
9 rulemaking to vehicles "owned, operated,
10 leased or otherwise controlled by the covered
11 person" as eligible for planned petroleum
12 reduction.

13 That point has been made several
14 times earlier today. Proposed inclusion of
15 fork trucks. In the Notice of Proposed
16 Rulemaking discussion on page 36035 of the
17 June 23, 2006 Federal Register, DOE explains
18 the inclusion of fuel used in medium, heavy
19 duty, and excluded light duty vehicles. We
20 suggest that consideration be given to also
21 include fork trucks which we feel can also be
22 considered transportation related, and would
23 also possibly result in increased waiver use
24 and thus result in greater petroleum
25 displacement. This point has been made also.

1 Both forktrucks as well as other offroad
2 equipment.

3 Lastly, clarification of this
4 section, "will achieve a reduction in the
5 annual consumption of petroleum fuels by its
6 motor vehicles equal to the amount of
7 alternative fuel the fleet's inventory of
8 alternative fuel vehicles, underlined,
9 including alternative fuel vehicles that the
10 state or covered person would have been
11 required to acquire in model years for which
12 a waiver is received, would use if operated
13 100 percent of the time on alternative fuel.

14 I guess the words are, the concern
15 is that clarifying that specific section.
16 And I think we've talked about that a couple
17 of times too here.

18 In summary, many of us in the
19 community of Fleet Managers want to encourage
20 the Department for the adoption of this
21 language where creative means compliance
22 should be encouraged as well as an accelerant
23 for emerging technological advances, like
24 medium and heavy duty hybrids, that will
25 evolve into mainstream products.

1 That concludes his statement. And
2 I'll give it to you in a few minutes here.
3 Thanks.

4 MS. BLUESTEIN: Did you feel like
5 when we went through the slides, it addressed
6 the issue you have on number 3, clarification
7 of that section?

8 MR. SCHOMBER: Uh --

9 MS. BLUESTEIN: I mean that kind
10 of got to the essence of what we meant by
11 inventory coming into the program, you have
12 some alternative fuel vehicles.

13 MR. SCHOMBER: My personal
14 comment, yes. However, I would like to see
15 something either written there or in the
16 language that you -- the guidance you provide
17 --

18 MS. BLUESTEIN: Right.

19 MR. SCHOMBER: That specifically
20 speaks to the question of including the
21 credits that we presently have, because I got
22 a little confused and you sort of clarified
23 the fact that we're dealing with two kinds of
24 credits, the first on the existing act which
25 we have an inventory still of because we

1 bought early. And then some of the new act
2 that you get to accommodate either over
3 planning or under planning or under achieving
4 and they're different animals a little bit.

5 MS. BLUESTEIN: Right.

6 MR. SCHOMBER: So I think you
7 ought to clarify that and I think most people
8 would want that too from what I've heard
9 elsewhere at the table.

10 MS. BLUESTEIN: Okay.

11 MR. SCHOMBER: Does that answer
12 the question?

13 MS. BLUESTEIN: Yes. If you have
14 a specific example of how you would want it
15 clarified. I guess I'm still just a little
16 confused as to what the question is.

17 MR. SCHOMBER: I think from my
18 view, the question is the generic use of the
19 word "credits."

20 MS. BLUESTEIN: We're only using
21 the credits -- credits are something that
22 exist in the original EPACT program, Section
23 508 program where you accumulate the credits.

24

25 What we tried to do is use

1 gallonage in the other program, so that
2 you're not rolling over credits, you're
3 rolling over gallon, excess gallonage. So
4 that's kind of how to keep them straight.

5 But, on the other hand, what might
6 be confusing is that you'd still have this
7 bank out here of credit.

8 MR. SCHOMBER: Of vehicle credits.

9 MS. BLUESTEIN: Of vehicle
10 credits.

11 MR. SCHOMBER: Right.

12 MS. BLUESTEIN: And we're saying
13 that if you have a shortfall along the line
14 of petroleum use, you would have estimated
15 your petroleum use and then you fell far
16 short of that and you needed to make that up
17 with you know, several credits, in actuality,
18 then you could draw from the credits that you
19 have and the other program or you could
20 purchase credits. You could also apply
21 excess petroleum gallons. So you would have
22 a choice of rolling over excess petroleum
23 gallons from the waiver program or going,
24 dipping into your credit bank from the
25 program where you've accumulated credits

1 under Section 508, from your original program
2 requirements.

3 MR. SCHOMBER: Wouldn't I want to
4 use my existing money in the bank, my
5 existing credits?

6 MS. BLUESTEIN: The credits are
7 only used if necessary.

8 MR. SCHOMBER: Wouldn't I want to
9 use them first to define the number of
10 alternative fuel vehicles I must acquire?
11 That's the way we do it today.

12 MS. BLUESTEIN: Then you could
13 just stay in the current program and do that.

14 MR. SCHOMBER: Okay, but if I
15 don't have enough, then I go to the -- and
16 the alternate compliance scheme is good for
17 me, then I go to the alternate scheme for the
18 remaining ones that I can't make out of my --

19 MS. BLUESTEIN: The first time
20 especially if you apply and you fall far
21 short, you're not going to have a way to make
22 that up and you don't want us coming to say
23 oh, you're short, we want to throw you out of
24 the program, we want to fine you. Instead,
25 it seems more reasonable for us to say well,

1 why don't you dip into your credit bank and
2 take three or four credits from there and
3 apply them to this or buy three or four
4 credits from another fleet and then you're
5 okay for the year.

6 MR. SCHOMBER: Yes.

7 MS. BLUESTEIN: So it just allows
8 some additional flexibility or for instance,
9 if you were pretty even on your petroleum
10 replacement for that year, then maybe you
11 would -- the next year you weren't, so you
12 don't have any excess petroleum gallons
13 rolled over, you might draw from your bank of
14 credits over on the other area or you might
15 buy credits from another fleet. So it's just
16 a way of allowing you some amount of safety
17 in the program because you have to come up
18 with an estimate and then you have to tell us
19 what's real. And there might be a
20 discrepancy.

21 So maybe we can explain that
22 better.

23 MR. SCHOMBER: Having done this
24 since -- whenever we got over it, before the
25 act actually was in -- I know what our buy is

1 and I know what our credits are and we'll be
2 okay for a couple of years with the credits,
3 which we'll probably use up and we probably
4 will go directly to the fuel basis. Although
5 we may do that with some biodiesel purchase,
6 if the price is right, so we accumulate some
7 forward-going, additional forward-going
8 credits for future use.

9 MS. BLUESTEIN: You're talking
10 about under the alternative compliance
11 program?

12 MR. SCHOMBER: Sure.

13 MS. BLUESTEIN: I think the idea
14 is you don't want to --

15 MR. SCHOMBER: You can bank them
16 either way. I can either owe them to you or
17 I can bank them in my pocket, right?

18 MS. BLUESTEIN: Well, I think that
19 we don't want you going into the alternative
20 compliance program just thinking you're going
21 to use your credits. We'd rather see a good
22 solid petroleum reduction plan and only use
23 those credits if they're completely necessary
24 to reconcile at the end of the year. So if
25 you want to just sort of draw your credits

1 down, just stay in the other program and draw
2 your credits down.

3 MR. SCHOMBER: I think we'd do
4 that first.

5 MS. BLUESTEIN: That's a strategy
6 that as a fleet, you're going to have figure
7 out what is best for you, but I guess what
8 I'm saying is that I mean you just can't have
9 a plan that includes drawing down credit. I
10 wouldn't accept that. I would accept a solid
11 petroleum reduction plan and then at the end
12 of the year, if you were a little bit short,
13 you could draw credits just for safety to
14 make sure that you're at the right place at
15 the end of the year, you're reconciled.

16 But if you just want to draw down
17 credits, then I'd just recommend staying
18 where you are in the other program and not
19 having to create an administrative burden for
20 yourself or for DOE, if that's what your plan
21 is.

22 MR. SCHOMBER: I think that's the
23 way it will just work out kind of
24 conveniently because we have some in the bank
25 yet, so we use them up before the new

1 guidance and everything come out. Then we'll
2 be wanting to use the alternative plan.

3 MS. BLUESTEIN: Okay. I don't
4 have anything else. Are you okay?

5 I guess we want to go next to
6 Janet Kopenhaver of the National Biodiesel
7 Board.

8 MS. KOPENHAVER: I am the only
9 thing that stands between you and lunch.

10 (Laughter.)

11 I'm from New York though so don't
12 worry, we can get through this real quick.

13 I certainly appreciate the
14 opportunity to be here on behalf of the
15 National Biodiesel Board to offer some oral
16 testimony. Really, it's just a statement of
17 support on the alternative compliance
18 program. We want to again publicly state our
19 support for the rule and our thanks to DOE's
20 Energy Efficiency and Renewal Energy Program
21 staff for drafting the comments as they did.

22 And we want to point out two particular
23 areas we particularly support. One,
24 federal, state and utility fleets are
25 obviously an important partner for the

1 biodiesel industry and we're very pleased to
2 see that DOE is providing them in this
3 proposed rule maximum flexibility for
4 compliance. By not limiting compliance for
5 visions, we believe that the regulated
6 community will be able to use those methods
7 most applicable and beneficial to their
8 respective fleets, the communities in which
9 they are located and the Federal Government
10 as a whole.

11 Second, we firmly believe that the
12 congressional intent when enacting this
13 language was not to restrict any particular
14 technology in any way. So therefore we
15 commend DOE for adhering to this
16 Congressional intent by allowing fleets to
17 meet petroleum reduction levels in the most
18 appropriate manner to them.

19 I'd certainly agree that there
20 should be no cap on the usage of biodiesel
21 use to meet these reduction levels and, as
22 many of you know, biodiesel is a
23 domestically-produced, renewable fuel that
24 can be used in unmodified diesel engines.
25 Testing confirms that biodiesel is nontoxic,

1 readily biodegradable and reduces serious air
2 pollutants such as carbon monoxide, carbon
3 dioxide, unburned hydrocarbons, particulates,
4 sulfur emissions and air toxics.

5 Again, we appreciate this
6 opportunity to be here to provide this oral
7 testimony. We also intend to submit written
8 comments by the August 7 deadline and, if you
9 have any further information, please do not
10 hesitate to contact us.

11 MS. BLUESTEIN: Thank you Janet.
12 I just want to clarify because I think I
13 heard some mention of federal fleets in your
14 testimony. This only applies to state and
15 alternative fuel provider fleets.

16 MS. KOPENHAVER: Sorry, my
17 mistake.

18 MS. BLUESTEIN: That's okay --

19 MS. KOPENHAVER: [Laughter]

20 MS. BLUESTEIN: -- I just wanted
21 to clarify for the record.

22 MS. KOPENHAVER: Okay.

23 MS. BLUESTEIN: I don't have any
24 further questions, so I guess, I don't want
25 to stand between you and lunch. If you have

1 any further questions or comments or want to
2 make a quick statement, let me know right now
3 and if not, we'll wrap things up, or if you
4 have any other questions for me for the
5 record.

6 Otherwise, I think you all have my
7 e-mail address, my phone number and know how
8 to get in touch with me. Remember that
9 written comments are due August 7th, no later
10 than August 7th, and I would appreciate it if
11 you would email them to me directly rather
12 than going to the eGov website. As I
13 understand it, they're bundled and sent to us
14 from there and I might get them a week or two
15 later and I'd rather get them sooner than
16 later.

17 In addition, I think it's best if
18 you have a signed copy that you also send to
19 me via regular mail. Our regular mail is
20 super slow, so if you can send it both, but
21 if you can send a signed copy as well in the
22 mail, I think that's probably to everybody's
23 benefit.

24 And, I look forward to getting
25 those comments. You know, we're especially

1 looking for, if you're interested in
2 something like opening it up to the, you
3 know, offroad fleets and things like that,
4 you know, again, let the statute be your
5 guide and look at it and help us to
6 determine, you know, give us some good
7 information and evidence that helps us to
8 support those types of things.

9 Oh, also, somebody here just
10 reminded me don't send CD-ROMs to me through
11 the mail or computer discs since our mail is
12 irradiated and they will all melt.

13 (Laughter.)

14 Which just happens. So, any way,
15 I truly appreciate everybody who took the
16 time to make oral comments. Thank you to
17 each and every one of you. I really
18 appreciate it. It's been interesting working
19 on this and I look forward to working with
20 you as final comments come out and on the
21 final rulemaking and to guidance later on.

22 And keep in mind again that the
23 rulemakings are frameworks and that the
24 guidance will probably meet your needs even
25 more and be a little bit more specific. And

1 I think the way we that have to work it out
2 when we were asked about timing, what's the
3 timing on these, what's going to come up
4 first, I can't tell you right now. I think
5 the best thing is to do an initial guidance
6 and a final rulemaking concurrently. Because
7 I kind of have to use one to do the other.
8 So, that's probably how it's going to work.

9 And I think that you know, while I
10 think that the comment period will help us
11 quite a bit, you know, in drafting the final,
12 if there's nothing really big, if there's
13 nothing major that comes up, I think it
14 should be a fairly straightforward process
15 and hopefully it will be able to sail through
16 all of the check points at DOE and make it
17 into the Federal Register.

18 With that, I wish you all well and
19 if you need to know you way around or if
20 you're looking for a place for lunch or
21 whatever, I'd be happy to you, if you're from
22 out of town. Me, or any of the people from
23 DOE or New West or NREL know the area pretty
24 well, I'd be happy to give you a hand with
25 figuring out what to do next.

1 MR. O'CONNOR: Linda, will your
2 slides be on the website?

3 MS. BLUESTEIN: Yes, we will post
4 them.

5 (Whereupon, at 11:37 a.m., the
6 public hearing was concluded.)

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